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Briefing on How To Use the Federal Register
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WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SAN FRANCISCO, CA

WHEN: July 22, at 9:00 am
WHERE: Federal Building and U.S. Courthouse, Conference Room 7209–A, 450 Golden Gate Avenue, San Francisco, CA
RESERVATIONS: Federal Information Center, 1–800–726–4995

SEATTLE, WA

WHEN: July 23, at 1:00 pm
WHERE: Henry M. Jackson Federal Building, North Auditorium, 915 Second Avenue, Seattle, WA
RESERVATIONS: Federal Information Center, 1–800–726–4995

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

[CN-92-001]

RIN: 0581-AA64

Revisions of User Fees for Cotton Classification, Testing and Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is making final the increase in user fees charged to cotton producers for cotton classification services under the Cotton Statistics and Estimates Act in accordance with the formula provided in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102-237, which was proposed in the Federal Register on April 21, 1992. The 1991 user fee for High Volume Instrument (HVI) classification service was $1.73 per bale. This action raises the fee for 1992 to $1.92 per bale. Manual cotton classification services will be discontinued for Upland cotton as proposed, but will be continued for American Pima cotton. The 1991 user fee for American Pima manual classification was $1.23, and the 1992 fee will be $1.92 per bale, the same as for HVI classification.

Fees charged for cotton classification services under the U.S. Cotton Standards Act are also increased. The fees for other classification and testing services, and for copies of the standards are being raised. These increased fees are necessary to recover the increased costs of providing such services, including administrative and supervisory costs. The new fees are effective on July 1, 1992, aso that they may cover the beginning of the classing season.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Lee Cliburn, 202-720-3193.

SUPPLEMENTARY INFORMATION: A proposed rule detailing the user fee charges for cotton classification, testing and standards was published on April 21, 1992, in the Federal Register. (57 FR 14492). A 15-day comment period was provided for interested persons to respond to the proposed rule; four comments were received. All four of the comments expressed opposition to the discontinuance of manual classification for American Pima cotton. No comments were received concerning any other portion of the proposed regulation.

American Pima, or Extra Long Staple, cotton accounts for less than 5 percent of the total U.S. cotton crop each year, and is a special use fiber. Upland cotton makes up the remainder of the U.S. production. American Pima is distinctly different from Upland in appearance and fiber qualities. AMS has offered HVI classification for American Pima cotton for only two years, and during 1991, only 23 percent of the total USDA American Pima classings were HVI. HVI classing has been available optionally for Upland cotton for over ten years, providing the Upland cotton producers ample opportunity to become familiar with HVI classification, and over 97 percent of the 1991 Upland cotton was classed by HVI. Therefore, AMS is persuaded by the four comments received that there is good cause for the American Pima industry to have a longer transition period than two years from manual classing to HVI classing. Manual classification will be retained as an optional service for American Pima cotton only.

Therefore, AMS is making final these user fees as proposed with the exception of retaining manual classing for American Pima cotton.

This final rule has been reviewed in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be "non-major" since it does not meet the criteria for a major regulatory action as stated in the Order.

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Administrator, Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This is because: (1) The fee increases merely reflect a minimal increase in the cost-per-unit currently borne by those entities utilizing the services; (2) the cost increase will not affect competition in the marketplace; and (3) the use of classification and testing services and the purchase of standards is voluntary.

The information collection requirements contained in this final rule have been previously approved by the Office of Management and Budget and assigned OMB control numbers under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

These changes will be effective July 1, 1992, as provided by the Cotton Statistics and Estimates Act.

Fees for Classification Under the Cotton Statistics and Estimates Act of 1927

The user fee charged to cotton producers for HVI classification services under the Cotton Statistics and Estimates Act (7 U.S.C. 473a) was $1.73 per bale during the 1991 harvest season as determined using the formula provided in the Uniform Cotton Classing Fees Act of 1987. The fees cover salaries, costs of equipment and supplies, and other overhead costs including administrative and supervisory costs.

This final rule establishes the user fee charged to producers for High Volume Instrument classification and manual classification at $1.92 per bale during the 1992 harvest season.

The user fee charged to producers for cotton classification service was based upon the cost of providing manual classification from 1981 through 1991. The formula for establishing this fee was specified by the Omnibus Reconciliation Act of 1981 until the Uniform Cotton Classing Fees Act of 1987 was passed. The fee for manual classification was established by the formula in the Act, and the fee for HVI classification was established by adding fifty cents to the fee for manual classification.

Public Law 102–237 (105 Stat. 1818, December 13, 1991) amended the formula in the Uniform Cotton Classing Fees Act for establishing the fee charged to producers for classification so that the fee would be based on the prevailing method of classification requested by producers during the previous year. HVI classing was the prevailing method of cotton classification requested by producers in 1991. Therefore, the 1992 user fee for classification service would be based on the 1991 base fee for HVI classification.

USDA is eliminating manual cotton classification services for Upland cotton since the quality data that is provided under manual classification—grade, staple and micronaire—has been provided as part of the HVI classification service for Upland cotton for over ten years, and there is no practical reason to continue to provide manual classification for Upland cotton as a separate service. Less than 3 percent of the 1991 Upland cotton was manually classed. Manual classification service for American Pima cotton will be continued. HVI classing has only been available for American Pima cotton for two years, and the majority of 1991 American Pima cotton was manually classed.

The proposed fee was calculated by applying the formula specified in the Uniform Cotton Classing Fees Act of 1987, as amended by Public Law 102–237. The 1991 base fee for HVI classification exclusive of adjustments, as provided by the Act, was $1.80 per bale. A 3.4 percent, or six cents per bale increase due to the percentage change in the implicit price deflator of the gross domestic product added to the $1.80 results in a 1992 base fee of $1.86 per bale. The formula in the Act provides for the use of the percentage change in the implicit price deflator of the gross national product (as indexed for the most recent 12-month period for which statistics are available). However, this has been replaced by the gross domestic product by the Department of Commerce as a more appropriate measure for the short-term monitoring and analysis of the U.S. economy.

The number of bales to be classed by the United States Department of Agriculture from the 1992 crop is estimated at 16,000,000. The 1992 base fee is decreased 15 percent based on the estimated number of bales to be classed (one percent for every 100,000 bales or portion thereof above the base of 12,500,000 bales, limited to a maximum adjustment of 15 percent). This percentage factor amounts to a 27 cents per bale reduction and is subtracted from the 1992 base fee of $1.86 per bale, resulting in a fee of $1.59 per bale.

The formula requires addition of a five cents per bale surcharge to the $1.59 per bale fee since the projected operating reserve is less than 25 percent. The five cent surcharge results in a 1992 season fee of $1.64 per bale. Assuming a fee of $1.64, the projected operating reserve is one percent. An additional 28 cents per bale is required to provide an ending accumulated operating reserve for the fiscal year of at least 10 percent of the projected cost of operating the program. This establishes the 1992 season fee at $1.92 per bale for HVI classification. The fee for manual classification is also $1.92 per bale based on the cost per bale of providing the service.

Accordingly, in § 28.909, paragraph (b) which refers to manual classification costs is revised to reflect that manual classification is available for American Pima cotton only and to reflect the increase in the fee. Existing paragraph (c) is revised to reflect the increase in the HVI classification fee.

As provided for in the Uniform Cotton Classing Fees Act of 1987, as amended, a five cent per bale discount is continued to be applied to voluntary centralized billing and collecting agents as specified in § 28.909 (d).

The decision to eliminate computer punched cards as an optional method of disseminating classing data to producers after the 1991 harvest season was announced in 1991 (56 FR 24671, May 31, 1991). That decision was rescinded, and computer punched cards continue to be listed in § 28.910 as one of the methods for producers or their agents to receive classing data. Growers or their designated agents continue to incur no additional fees if only one method of receiving classification data is requested.

The fee for each additional method of receiving classification data in § 28.910 increases from one to five cents per bale. A central data base is established for access by owners of cotton other than producers in § 28.910. The fee for receiving classification data from this central database is five cents per bale. The language in § 28.910 is revised to reflect these changes. Also in § 28.910, the fee for a new memorandum remains at a minimum of $5.00 per sheet or 15 cents per bale.

The fee for review classification in § 28.911 is increased from $1.73 per sample to $1.92 per sample. The fee for returning samples after classification in § 28.911 increases from 35 cents per sample to 40 cents per sample.

Fees for Classification Services Under the United States Cotton Standards Act

Certain cotton classification services are conducted under the United States Cotton Standards Act, and these services are not limited to producers. Fees for these services have been reviewed. In order to recover increased costs, including supervision and overhead, the fees for classification of cotton in § 28.116 and of linters in § 28.148 are increased.

The fee for staple only, the fee for grade and staple, and the fee for grade, staple, and micronaire in § 28.116, which were proposed to be eliminated are retained for American Pima only and the language is revised to reflect that change. The fee for grade, staple and micronaire reading for American Pima increases from $1.50 to $2.00 per sample. The fee for American Pima grade and staple only increases from $1.30 to $1.50 per sample. The fee for American Pima grade only or staple only increases from $1.05 per sample to $1.20 per sample. Staple and micronaire are now determined by the HVI method and this service is offered for any cotton. The fee for HVI Classification, including grade, remains at $2.00 per sample. The fee for HVI classification, excluding grade, increases from $1.65 per sample to $1.75 per sample. The current additional fee of 35 cents per sample increases to 40 cents per sample unless the sample becomes government property immediately after classification.

The fee in § 28.122 for the practical classing examination for grade increases from $100.00 to $105.00.

Fees for Cotton Standards

Practical forms of the cotton standards are prepared and sold by the Cotton Division offices in Memphis, Tennessee under the authority of the United States Cotton Standards Act (7 U.S.C. 51 et seq.). The Omnibus Budget Reconciliation Act of 1981 (Public Law 97–37) directs that the price for Standards will cover, as nearly as practicable, the costs of providing the standards. This rule increases the fees listed in § 28.123 for practical forms of the Upland and Pima cotton grade and staple standards and in § 28.151 for practical forms of the cotton linters standards for grade and staple. The fees are adjusted due to increased costs for salaries, preparation and delivery and postage of the standards.

In § 28.123, the fees for American Upland cotton grade standards increase from $120.00 to $125.00 f.o.b. Memphis, Tennessee, or overseas air freight collect. The prices increase from $125.00

to $130.00 for domestic surface delivery and from $160.00 to $165.00 for overseas air parcel post delivery. The fees for American Upland staple standards f.o.b. Memphis and overseas air freight collect increase from $18.00 to $19.00. The domestic surface delivered fee increases from $21.00 to $22.00 and the overseas air parcel post delivery fee increases from $32.00 to $33.00. The fees for American Pima grade standards increase from $155.00 to $160.00 f.o.b. Memphis or overseas air freight collect. The fees increase from $160.00 to $165.00 for domestic surface delivery and from $195.00 to $200.00 for overseas air parcel post delivery. Fees for American Pima staple standards increase from $19.00 to $20.00 for f.o.b. Memphis and overseas air freight collect. The domestic surface delivered fee increases from $22.00 to $23.00 and the overseas air parcel post delivered fee increases from $33.00 to $34.00.

In § 28.151, the fees for linters grade standards increase from $120.00 to $125.00 f.o.b. Memphis or overseas air freight collect. The fee for domestic surface delivery increases from $125.00 to $130.00 and the fee for overseas air parcel post delivery increases from $160.00 to $165.00. The f.o.b. Memphis or overseas air freight collect fee for linters staple standards increases from $20.00 to $21.00. The surface delivery fee increases from $23.00 to $24.00 for domestic and from $34.00 to $35.00 for overseas air parcel post.

Testing Services

Cotton testing services and instrument calibration materials are provided by a USDA Laboratory in Clemson, South Carolina under the authority of the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 417–478). The testing services and materials are available, upon request, to private sources on a fee basis. The Cotton Service Testing Amendment (7 U.S.C. 473d) specifies that the fees for the services be reasonable and cover as nearly as practicable the costs of rendering the services. The costs of providing these services have increased since the last fee increases in 1991 due to higher costs for salaries and miscellaneous overhead costs including supplies and materials. The fees for fiber and processing tests and calibration and check materials in § 28.956 are increased.

AMS also have revised the instrument calibration and check material listed in § 28.956. A trashmeter calibration standard for High Volume Instrument (HVI) Systems is added as item 3.2. Fees for furnishing the standard are $30.00 f.o.b. Memphis or overseas air freight collect. The fee for surface delivery of the standard in the continental United States is $33.00 and the fee for air parcel post delivery outside the continental United States is $44.00.

A new item 3.3 listed in § 28.956 is the trashmeter calibration standard included along with the five standard color tiles for calibrating colormeters in a box designed for storage and easy access to the materials. The fee for the box including the standards is $150.00 f.o.b. Memphis or overseas air freight collect. The fees for delivery of the boxes with standards are $155.00 for surface delivery within the continental United States and $190.00 for air parcel post delivery of a box with standards outside the continental United States.

A new item 3.4 listed in § 28.956 is a single cotton sample of a designated leaf level mounted under glass, made available for checking the calibration of trashmeters. The fee for a single sample of a designated leaf mounted under glass is $40.00 f.o.b. Memphis or overseas air freight collect. Fees for delivery of a single sample of a designated leaf level mounted under glass are $44.00 for surface delivery within the continental United States and $54.00 for air parcel post delivery outside the continental United States.

In item 3.5 listed in § 28.956, AMS will furnish a set of six cotton samples of six designated leaf levels each mounted under glass. Fees for the six sample set are $240.00 f.o.b. Memphis or overseas air freight collect; $264.00 surface delivered within the continental United States; and $300.00 delivered by air parcel post to destinations outside the continental United States.

Fees for these materials are shown in the table.

The fees for fiber and processing tests in § 28.956, except items 33.0, 33.2a, and 33.2b are increased. The minimum fee listed at 33.2 is removed. The fees and new services are as follows:

Item No.	New service	Fee	
		Current	Proposed
1.0		90.00	95.00
1.0b		95.00	100.00
1.0c		90.00	95.00
1.0d		130.00	135.00
1.1a		156.00	168.00
1.1b		312.00	324.00
2.0a		19.00	20.00
2.0b		21.00	22.00
2.0c		19.00	20.00
2.0d		29.00	30.00
2.1a		27.00	28.00
2.1b		30.00	31.00
2.1c		27.00	28.00
2.1d		41.00	42.00
3.0a		115.00	125.00
3.0b		120.00	130.00
3.0c		115.00	125.00
3.0d		155.00	165.00
3.1a		21.00	22.00
3.1b		24.00	25.00
3.1c		21.00	22.00
3.1d		34.00	35.00
	3.2a		30.00
	3.2b		33.00
	3.2c		30.00
	3.2d		44.00
	3.3a		150.00
	3.3b		155.00
	3.3c		150.00
	3.3d		190.00
	3.4a		40.00
	3.4b		44.00
	3.4c		40.00
	3.4d		54.00
	3.5a		240.00
	3.5b		264.00
	3.5c		240.00
	3.5d		300.00
4.0a		40.00	42.00
4.0b		45.00	47.00
4.0c		40.00	42.00
4.0d		80.00	82.00
4.1a		40.00	42.00
4.1b		45.00	47.00
4.1c		40.00	42.00
4.1d		80.00	82.00
5.0		1.65	1.75
6.0		1.20	1.25
7.0		9.00	9.50
7.1		5.75	6.00
8.0		9.25	9.75
8.1		5.75	6.00
9.0a		9.25	9.75
9.0b		7.00	7.50
9.0c		5.75	6.00
10.0		.65	.70
10.1		.35	.40
11.0		15.00	16.00
Minimum		75.00	80.00
12.0		7.00	7.50
13.0a		74.00	78.00
13.0b		113.00	119.00
13.0c		136.00	143.00
13.1a		54.00	57.00
13.1b		7811.00	82.00
13.1c		106.00	112.00
13.2		130.00	137.00
14.0a		25.00	26.00
14.0b		30.00	33.00
14.0c		35.00	38.00
15.0a		8.00	8.50
15.0b		14.00	15.00
16.0		16.00	17.00
17.0		5.25	5.50
Minimum		26.25	27.50
18.0		25.00	27.00
19.0		84.00	88.00
20.0		115.00	120.00
21.0		105.00	110.00
22.0		152.00	160.00
23.0		220.00	232.00
24.0		240.00	252.00
25.0		33.00	35.00
25.1		45.00	48.00
26.0a		84.00	88.00
26.0b		24.00	26.00
27.0		13.00	14.00
27.1		6.00	6.50
28.0		5.50	6.00
28.1		9.00	9.50
28.2		6.00	6.50
29.0		19.00	20.00
29.1		33.00	35.00
30.0		15.00	16.00
Minimum		45.00	48.00
32.0		4.00	4.25
33.0		1.50	1.50
Minimum		6.00	6.00

Item No.	New service	Fee	
		Current	Proposed
33.1		16.00	18.00
33.2a		2.00	2.00
33.2b		5.00	5.00

List of Subjects in 7 CFR Part 28

Administrative practice and procedures, Cotton, Cotton linters, Cotton samples, Grades, Market news, Reporting and recordkeeping requirements, Standards, Staples, Testing, Warehouses.

For the reasons set forth in the preamble, 7 CFR part 28 is amended as follows:

PART 28—[AMENDED]

1. The authority citation for subpart A of part 28 continues to read as follows:

Authority: Sec. 5, 50 Stat. 62, as amended (7 U.S.C. 55); Sec. 10, 42 Stat. 1519 (7 U.S.C. 61).

2. Section 28.116 is amended by revising paragraphs (a) and (c) to read as follows:

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the services shall pay a fee, as follows, subject to the additional fee provided by paragraph (c) of this section.

(1) For American Pima Cotton only—grade, staple and micronaire reading for $2.00 per sample; grade and staple only for $1.50 per sample; grade only or staple only for $1.20 per sample.

(2) High Volume Instrument (HVI) classification, including grade—$2.00 per sample.

(3) High Volume Instrument (HVI) classification, excluding grade—$1.75 per sample.

* * * * *

(c) An additional fee of 40 cents per sample shall be assessed for services described in paragraphs (a) (1), (2), and (3), and (b) of this section unless the request for service is so worded that the samples become government property immediately after classification.

* * * * *

3. Sections 28.122, 28.123, 28.148, and 28.151 are revised to read as follows:

§ 28.122 Fee for practical classing examination.

The fee for the practical classing examination for cotton or linters shall be $105.00. Any applicant who passes the examination may be issued a certificate indicating this accomplishment. Any person who fails to pass the examination may be reexamined. The fee for this practical reexamination is $85.00.

§ 28.123 Costs of practical forms of cotton standards.

The costs of practical forms of the cotton standards of the United States are as follows:

Effective date: July 1, 1992	Dollars each box or roll			
	Domestic shipments		Shipments delivered outside the continental United States	
	f.o.b. Memphis, TN	Surface delivery	Air freight collect	Air parcel post delivered
Grade Standards:				
American Upland	$125	$130	$125	$165
American Pima	160	165	160	200
Standards for length of staple:				
American Upland (prepared in one pound rolls for each length)	19	22	19	33
American Pima (prepared in one pound rolls for each length)	20	23	20	34

§ 28.148 Fees and costs; classification, review; other.

The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these qualities shall be at the rate of $1.60 for each bale or sample involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable, apply to services performed with respect to linters.

§ 28.151 Cost of practical forms for linters, period effective.

Practical forms of the official cotton linters standards of the United States will be furnished to any person subject to the applicable terms and conditions specified in § 28.105; provided, that no practical form of any of the official cotton linters standards of the United States for grade shall be considered as representing any such standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12 months following the date of its certification. The cost of the practical forms of cotton linters standards of the United States are as follows:

Effective date: July 1, 1992	Dollars each box or roll			
	Domestic shipments		Shipments delivered outside the continental United States	
	f.o.b. Memphis, TN	Surface delivery	Air freight collect	Air parcel post delivered
Linters Grade Standards (6 sample box for each grade)	$125	$130	$125	$165
Linters Staple Standards (prepared in one pound rolls for each length)	21	24	21	35

4. The authority citation of subpart D of part 28 continues to read as follows:

Authority: Sec. 3a, 50 stat. 62, as amended (7 U.S.C. 473a); Sec. 3c, 50 stat. 62 (7 U.S.C. 473c); unless otherwise noted.

5. In § 28.909, paragraphs (b) and (c) are revised to read as follows:

§ 28.909 Costs.

* * * * *

(b) The cost of manual classification service to producers, available only for American Pima cotton, is $1.92 per sample.

(c) The cost of High Volume Instrument (HVI) cotton classification service to producers is $1.92 per sample.

* * * * *

6. Section 28.910 is amended by revising paragraphs (a) and (b) and adding paragraph (c) to read as follows:

§ 28.910 Classification of samples and issuance of classification data.

(a) The samples submitted as provided in this subpart shall be classified by employees of the Division. Classification memoranda showing the official quality determination of each sample according to the official cotton standards of the United States shall be issued by any one of the following methods at no additional charge:

(1) Printed cards,

(2) Computer punched cards,

(3) Computer diskettes,

(4) Computer tapes, or

(5) Telecommunications, with all long distance telephone line charges paid by the receiver of data.

If the issuance of data to growers or to their agents is made by more than one method, the fee for each bale issued by each additional method shall be five cents. The cost of any computer tape or diskette not returned to the Division will be billed to the requestor. If provided as additional method of data transfer, the minimum fee for each tape or diskette issued shall be $10.00.

(b) Owners of cotton, other than producers, may receive classification data showing the official quality determination of each sample by means of telecommunications from a central data base to be maintained by the Division. The fee for this service shall be five cents per bale, with all long distance telephone line charges paid by the receiver of data.

(c) Upon request of an owner of cotton for which classification memoranda have been issued under the subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be 15 cents per bale or a minimum of $5.00 per sheet.

7. Section 28.911 is revised to read as follows:

§ 28.911 Review classification.

(a) A producer may request one review classification for each bale of eligible cotton. The fee for review classification is $1.92 per bale.

(b) Samples for review classification must be drawn by gins or warehouses licensed pursuant to §§ 28.20 through 28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification, the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds from the sale of samples that become Government property shall be used to defray the costs of providing the services under this subpart. Producers who request return of their samples after classing will pay a fee of 40 cents per sample in addition to the fee established above in this section.

8. The authority citation for subpart E of part 28 continues to read as follows:

Authority: Sec. 3c, 50 Stat. 62; (7 U.S.C. 473c); Sec. 3d, 55 Stat. 131 (7 U.S.C. 473d).

9. Section 28.956 is revised to read as follows:

§ 28.956 Prescribed fees.

Fees for fiber and processing tests shall be assessed as listed below:

Item number and kind of test	Fee per test
1.0 Calibration cotton for use with High Volume Instruments, per 5 pound package:	
a. f.o.b. Memphis, Tennessee	$95.00
b. By surface delivery within continental United States	100.00
c. By air freight collect outside continental United States	95.00
d. By air parcel post delivery outside continental United States	135.00
1.1 High Volume Instrument (HVI) System Check Level. Furnishing two samples per month for HVI determinations, summarizing returned data, and reporting deviations for average of all laboratories for measurements taken, per 12 months:	
a. By surface delivery within continental United States	168.00
b. By air parcel post delivery outside continental United States	324.00
2.0 Furnishing international calibration cotton standards with standard values for micronaire reading and fiber strength at zero and ⅛-inch gage and Fibrograph length:	
a. f.o.b. Memphis, Tennessee ½-lb. sample	20.00
b. By surface delivery within continental United States, ½-lb. sample	22.00
c. By air freight collect outside continental United States, ½-lb. sample	20.00
d. By air parcel post delivery, outside continental United States, ½-lb. sample	30.00
2.1 Furnishing international calibration cotton standards with standard values for micronaire reading only:	
a. f.o.b. Memphis Tennessee, 1-lb. sample	28.00
b. Surface delivery within continental United States, 1-lb. sample	31.00
c. By air freight collect outside continental United States, 1-lb. sample	28.00
d. By air parcel post delivery outside continental United States, 1-lb. sample	42.00
3.0 Furnishing standard color tiles for calibrating cotton colormeters, per set of five tiles including box:	
a. f.o.b. Memphis, Tennessee	125.00
b. Surface delivery within continental United States	130.00
c. By air freight collect outside continental United States	125.00
d. By air parcel post delivery outside continental United States	165.00
3.1 Furnishing single color calibration tiles for use with specific instruments or as replacements in above sets, each tile:	
a. f.o.b. Memphis, Tennessee	22.00
b. Surface delivery within continental United States	25.00
c. By air freight collect outside continental United States	22.00
d. By air parcel post delivery outside continental United States	35.00
3.2 Furnishing single trashmeter calibration standard, each:	
a. f.o.b. Memphis, Tennessee	30.00
b. Surface delivery within continental United States	33.00
c. By air freight collect outside continental United States	30.00
d. By air parcel post delivery outside continental United States	44.00
3.3 Furnishing one set of standard color tiles for calibrating cotton colormeters and one trashmeter calibration standard, per set of five tiles and the standard including box:	
a. f.o.b. Memphis, Tennessee	150.00
b. Surface delivery within continental United States	155.00
c. By air freight collect outside continental United States	150.00
d. By air parcel post delivery outside continental United States	190.00
3.4 Furnishing a single cotton sample of a designated leaf level mounted under glass, each:	
a. f.o.b. Memphis, Tennessee	40.00
b. Surface delivery within continental United States	44.00
c. By air freight collect outside continental United States	40.00
d. By air parcel post delivery outside continental United States	54.00

Item number and kind of test	Fee per test
3.5 Furnishing six cotton samples of six designated leaf levels each mounted under glass, per set of six samples:	
a. f.o.b. Memphis, Tennessee	240.00
b. Surface delivery within continental United States	264.00
c. By air freight collect outside continental United States	240.00
d. By air parcel post delivery outside continental United States	300.00
4.0 Furnishing a colormeter calibration sample box containing six cotton samples with color values Rd and +b for each sample, per box:	
a. f.o.b. Memphis, Tennessee	42.00
b. Surface delivery within continental United States	47.00
c. By air freight collect outside continental United States	42.00
d. By air parcel post delivery outside continental United States	82.00
4.1 Furnishing a trashmeter calibration sample box containing six cotton samples with trashmeter percent area reading for each sample, per box:	
a. f.o.b. Memphis, Tennessee	42.00
b. Surface delivery within continental United States	47.00
c. By air freight collect outside continental United States	42.00
d. By air parcel post delivery outside continental United States	82.00
5.0 High Volume Instrument (HVI) measurement. Reporting Micronaire, length, length uniformity, ⅛-inch gage strength, color and trash content. Based on a 6 oz. (170 g.) sample, per sample	1.75
6.0 Color of ginned cotton lint. Reporting data on the reflectance and yellowness in terms of Rd and +b values as based on the Nickerson-Hunter Cotton Colorimeter on samples which measure 5 x 6½ inches and weigh approximately 50 grams, per sample	1.25
7.0 Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 4 specimens from a blended sample, per sample	9.50
7.1 Fiber length of ginned cotton lint by Fibrograph method. Reporting the average length and average length uniformity as based on 2 specimens from each unblended sample	6.00
8.0 Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gage as specified by applicant. Reporting the average strength as based on 6 specimens from a blended sample, per sample	9.75
8.1 Pressley strength of ginned cotton lint by flat bundle method for either zero or ⅛-inch gage as specified by applicant. Reporting the strength as based on 2 specimens for each unblended sample, per sample	6.00
9.0 Stelometer strength and elongation of ginned cotton lint by the flat bundle method for ⅛-inch gage. Reporting the average strength and elongation:	
a. Based on 6 specimens from each blended sample, per sample	9.75
b. Based on 4 specimens from each blended sample, per sample	7.50
c. Based on 2 specimens from each blended sample, per sample	6.00
10.0 Micronaire readings on ginned lint. Reporting the micronaire based on 2 specimens per sample	0.70
10.1 Micronaire reading based on 1 specimen per sample	0.40
11.0 Fiber maturity and fineness of ginned cotton lint by the Causticaire method. Reporting the average maturity, fineness, and micronaire reading as based on 2 specimens from a blended sample, per sample	16.00
Minimum fee	80.00
12.0 Fiber fineness and maturity of ginned cotton lint by the IIC–Shirley Fineness/Maturity Tester method, reporting the average micronaire, maturity ratio, percent mature fibers and fineness (linear density) based on 2 specimens from a blended sample, per sample	7.50
13.0 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ⅛-inch group, average length and average length variability as based on 3 specimens from a blended sample:	
a. Ginned cotton lint, per sample	78.00
b. Cotton comber noils, per sample	119.00
c. Other cotton wastes, per sample	143.00
13.1 Fiber length array of cotton samples. Reporting the average percentage of fibers by weight in each ⅛-inch group, average length, and average length variability as based on 2 specimens from a blended sample:	
a. Ginned cotton lint, per sample	57.00
b. Cotton comber noils, per sample	82.00
c. Other cotton wastes, per sample	112.00
13.2 Fiber length array of cotton samples, including purified or absorbent cotton. Reporting the average percentage of fibers by weight in each ⅛-inch group, average length and average length variability as based on 3 specimens from a blended sample, per sample	137.000
14.0 Fiber length and length distribution of cotton samples by the Almeter method. Reporting the upper 25 percent length, mean length, coefficient of variation, and short fiber percentages by weight, number or tuft in each 1/8-inch group, as based on 2 specimens from a blended sample:	
a. Report percentages of fiber by weight only	28.00
b. Report percentages of fiber by weight and number or tuft	33.00
c. Report percentages of fiber by weight, number and tuft	38.00
15.0 Foreign matter content of cotton samples. Reporting data on the non-lint content as based on the Shirley Analyzer separation of lint and foreign matter:	
a. For samples of ginned lint or comber noils, per 100-gram specimen	8.50
b. For samples of ginning and processing wastes other than comber noils, per 100-gram specimen	15.00
16.0 Neps content of ginned cotton lint. Reporting the neps per 100 square inches as based on the web prepared from a 3-gram specimen by using accessory equipment with the mechanical fiber blender, per sample	17.00
17.0 Sugar content of cotton. Reporting the percent sugar content as based on a quantitative analysis of reducing substances (sugars) on cotton fibers, per sample	5.50
Minimum fee	27.50
18.0 Miniature carded cotton spinning test. Reporting data on tenacity (centinewtons per tex) of 22's yarn and HVI data (see item 5.0). Based on the processing of 50 grams of cotton in accordance with special procedures, per sample	27.00
19.0 Two-pound cotton carded yarn spinning test available to cotton breeders only. Reporting data on yarn skein strength, yarn appearance, yarn neps, and the classification and the fiber length of the cotton as well as comments on any unusual processing performance as based on the processing of 2 pounds of cotton in accordance with standard procedures into two standard carded yarn numbers employing a standard twist multiplier, per sample	88.00
20.0 Cotton carded yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps and classification, and fiber length as well as comments summarizing any unusual observations as based on the processing of 6 pounds of cotton in accordance with standard laboratory procedures at one of the standard rates of carding of 6½, 9½, or 12½ pounds-per-hour into two of the standard carded yarn numbers of 8s, 14s, 36s, or 50s, employing a standard twist multiplier unless otherwise specified, per sample	120.00
21.0 Spinning potentials test. Determining the finest yarn which can be spun with no ends down and reporting spinning potential yarn number. This test requires an additional 4 pounds of cotton, per sample	110.00
22.0 Cotton combed yarn spinning test. Reporting data on waste extracted, yarn skein strength, yarn appearance, yarn neps, and classification and fiber length as well as comments summarizing any unusual observations as based on the processing of 8 pounds of cotton in accordance with standard procedures at one of the standard rates of carding of 4½, 6½, or 9½ pounds per hour into two of the standard combed yarn numbers of 22s, 36s, 44s, 50s, 60s, 80s, or 100s employing a standard twist multiplier unless otherwise specified, per sample	160.00

Item number and kind of test	Fee per test
23.0 Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 10 pounds of cotton into two of the standard carded and two of the standard combed yarn numbers employing the same carding rate and the same yarn numbers for both the carded and the combed yarns, per sample	232.00
24.0 Cotton carded and combed yarn spinning test. Reporting the results as based on the processing of 9 pounds of cotton into two of the standard and two of the standard combed yarn numbers employing different carding rates and/or yarn numbers for the carded and combed yarns, per sample	252.00
25.0 Processing and testing of additional yarn. Any carded or combed yarn number processed in connection with spinning tests including either additional yarn numbers or additional twist multipliers employed on the same yarn numbers, per additional lot of yarn	35.00
25.1 Processing and finishing of additional yarn. Any yarn number processed in connection with spinning tests. Approximately 300 yards on each of 16 paper tubes for testing by the applicant, per additional lot of yarn	48.00
26.0 Twist in yarns by direct-counting method. Reporting direction of twist and average turns per inch of yarn:	
(a) Single yarns based on 40 specimens per lot of yarn	88.00
(b) Plied or cabled yarns based on 10 specimens, per lot of yarn	26.00
27.0 Skein strength of yarn. Reporting data on the strength and the yarn numbers based on 25 skeins from yarn furnished by the applicant, per sample	14.00
27.1 Single Strand Yarn Strength Test. Measuring 100 strands on a Statimat Tester and reporting yarn strength, elongation and coefficient of variation, per test	6.50
28.0 Appearance grade of yarn furnished on bobbins by applicant. Reporting the appearance grade in accordance with ASTM standards as based on yarn wound from one bobbin, per bobbin	6.00
28.1 Furnishing yarn wound on boards in connection with yarn appearance tests	9.50
28.2 Yarn Imperfections Test. Measuring yarn on the Uster Evenness Tester and reporting the yarn imperfections, thick places, thin places, and neps, and the present coefficient of variation, per sample	6.50
29.0 Strength of cotton fabric. Reporting the average warp and filling strength by the grab method as based on 5 breaks for both warp and filling of fabric furnished by the applicant, per sample	20.00
29.1 Cotton fabric analysis. Reporting data on the number of warp and filling threads per inch and weight per yard of fabric based on at least three (3) 6 x 6 inch specimens of fabric which were processed or furnished by the applicant, per sample	35.00
30.0 Chemical finishing tests on finished drawing silver. The Ahiba Texomat Dyer is used for scouring, bleaching and dyeing of a 3-gram sample. Color measurements are made on the unfinished, bleached and dyed cotton samples, using a Hunterlab Colorimeter, Model 25 M-3. The color values are reported in terms of reflectance (Rd), yellowness (+b) and blueness (-b)	
Minimum fee	16.00
32.0 Furnishing identified cotton samples. Includes samples of ginned lint stock at any stage of processing or testing, waste of any type, yarn or fabric selected and identified in connection with fiber and/or spinning tests, per identified sample	48.00
33.0 Furnishing additional copies of test reports. Including extra copies in addition to the two copies routinely furnished in connection with each test item, per additional sheet	4.25
Minimum fee	1.50
33.1 Furnishing a certified relisting of test results. Includes samples of sub-samples selected from any previous tests, per sheet	6.00
33.2 Sending copies of test reports for facsimile (FAX), per sheet:	18.00
a. Within continental United States	2.00
b. Outside continental United States	5.00
34.0 Classification of ginned cotton lint is available in connection with other fiber tests, under the provisions of 7 CFR 28, § 28.56, Classification includes grade only based on a 6 oz. (170 g.) sample.	

Dated: June 17, 1992.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 92-14724 6-18-92; 12:46 pm]

BILLING CODE 3410-02-M

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7 CFR Part 52

[FV-89-204]

United States Standards For Grades of Tomato Catsup

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulations (§ 52.2101-2112), which were published Monday, January 27, 1992 (57 FR 2980). The regulations contain U.S. Grade requirements for "consistency" of tomato catsup.

EFFECTIVE DATE: June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Harold A. Machias, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 0709, South Building, P.O. Box 96456, Washingotn, D.C. 20090-6456, Telephone (202) 720-6247.

SUPPLEMENTARY INFORMATION:

Background

AMS is removing a proviso in § 52.2102(b), that was inadvertently left unchanged in the final rule. This section was inadvertently not amended to remove the proviso which states "*Provided*, That the tomato catsup may score not less than 18 points for the factor of consistency if the total score is not less than 85 points." This resulted in an inconsistency with § 52.2107(c), published in the **Federal Register** on Janaury 27, 1992, which states, "Tomato catsup that possesses a fairly good consistency may be given a score of 18 to 21 points. Tomato catsup that falls into this classification shall not be graded above U.S. Grade C regardless of the total score for the product." Therefore, the final rule is being corrected by removing the proviso in § 52.2102(b) by replacing the colon after the word "subpart" with a period and deleting the remainder of the text in the sentence.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087 as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

§§ 52.2102(b) [Amended].

2. In Section 52.2102(b), first sentence, replace the colon after the word "subpart" with a period and remove the rest of the text (proviso) in that sentence.

Dated: June 17, 1992.

Daniel Haley,

Administrator.

[FR Doc. 92-19727 Filed 6-22-92; 8:45am]

BILLING CODE 3910-02-M

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 91-068-2]

Importation of Papayas from Costa Rica

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are allowing papayas to be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from three provinces in Costa Rica, provided that certain conditions are met to ensure the papayas' freedom from Mediterranean fruit flies. This action will provide importers and U.S. consumers with an additional source of papayas without presenting any significant pest risk.

EFFECTIVE DATE: July 23, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Darcy Axe, Staff Officer for Preclearance, International Services, APHIS, USDA, room 657, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; (301) 436-8892.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 *et seq.* prohibit or restrict the importation of certain fruits and vegetables into the United States to prevent the introduction of injurious insects, including fruit flies, that are new to or not widely distributed within the United States. The importation of papayas from Costa Rica has been prohibited because of the existence in Costa Rica of the Mediterranean fruit fly (*Ceratitis capitata*) and *Anastrepha* species of fruit fly.

On January 3, 1992, we published in the **Federal Register** (57 FR 217-219, Docket No. 91-068) a proposal to amend the regulations by allowing the Solo type of papaya to be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands, from the western Costa Rican provinces of Guanacaste, San Jose, and Puntarenas, provided certain conditions were met. Those conditions included the requirement that the papayas be less than half ripe; and that they be grown, harvested, packed, and inspected in a prescribed manner. The proposal also provided for fruit fly trapping and recordkeeping in Costa Rica, and stipulated a trust fund agreement between the Animal and Plant Health Inspection Service (APHIS) and the Costa Rican Ministry of Agriculture and Livestock (MAG).

We based our proposal on research conducted in Costa Rica under the direction of the Agricultural Research Service, U.S. Department of Agriculture. That research shows that the Solo type of papaya grown in western Costa Rica is not a host of the Mediterranean fruit fly when it is less than one-half ripe and, even when ripe, this papaya is not attacked by any *Anastrepha* species of fruit fly known to exist in Costa Rica.

The proposed rule stated that we would accept comments on our proposal if they were received on or before February 3, 1992. We received 15 comments by the closing date, submitted by producters, exporters, researchers, and representatives of State and foreign governments.

The comments, and changes we are making to the proposed rule in response to them, are discussed below.

Comments and Responses

Several commenters requested changes to the rule, as follows:

Comment: There does not appear to be any biological need to check fruit fly traps twice a week, nor to require the proposed density of traps. The program's efficacy hinges on the harvesting of half-ripe fruit, which do not attract fruit flies. Such frequent checking would require considerable manpower.

Response: As stated in the proposal, the procedures in the rule "are based on research that shows that, at less than ½ ripe, Solo papayas grown in this area of Costa Rica are not hosts of the Mediterranean fruit fly or any *Anastrepha* species of fruit fly known to exist in Costa Rica. These procedures would have to be reevaluated if other species of fruit flies were detected." Because the integrity of the program depends on continually updated data on fruit fly populations in the growing area, we consider the proposed trapping density warranted. However, we agree that the slight benefit that might be realized by requiring twice-weekly trapping checks would not justify the resource commitment involved. Therefore, we are changing the regulations to require that traps be checked once weekly.

Comment: The research conducted under the direction of the U.S. Department of Agriculture has demonstrated that the Solo type of papaya, less than half ripe, is not a host of the Mediterranean fruit fly or any *Anastrepha* species of fruit fly existing in Costa Rica. This suggests that requiring fruit fly traps to be in place for a full year before harvest, as proposed, is unnecessary.

Response: We disagree. Because the MAG does not maintain a comprehensive, countrywide fruit fly trapping program, we believe that requiring a one-year trapping regime before harvesting will offset the current information gap concerning fruit fly populations in Costa Rica, while providing an opportunity for timely detection of exotic fruit fly introductions. As the proposal indicated, the trapping and recordkeeping required in the provinces of Guanacaste, San Jose, and Puntarenas will function as an ongoing monitoring program, ensuring the validity of the fruit fly population data on which these regulations are based. This trapping regime will enable us to respond appropriately, should any exotic fruit flies be introduced into the area. Therefore, no change was made in response to this comment.

Comment: The protocol should require that Malathion bait sprays be applied every seven days during the two weeks before harvest; that fruit be cut and removed from the orchard, along with all fallen fruit; and that half the traps used be McPhail.

Response: The regulations require that half the traps used be McPhail, and that the other half be Jackson (see § 319.56-2w(b)(6)). The regulations further require that, from 30 days before harvest through its completion, all trees in the growing area be kept free of papayas half-ripe or riper, and that all culled and fallen fruits be removed from the field at least twice a week (see § 319.56-w(b)(2)). We do not consider it necessary to require specific control measures, such as Malathion bait spray applications, because the Mediterranean fruit fly and the *Anastrepha* species of fruit fly do not infest the Solo type of papaya when less than one-half ripe.

Comment: The proposed rule calls for a trust agreement between APHIS and MAG, under which MAG agrees to pay to APHIS all estimated costs to be incurred by APHIS in providing inspection services. The rule should allow the trust fund agreement to be made between APHIS and a private-sector institution, such as the National Chamber of Agriculture and Agroindustry. Due to the internal procedures of the Costa Rican Government, an entity other than MAG may be best qualified to manage the funds collected for the program and make payment to APHIS.

Response: We agree that entities other than MAG may be involved in collecting and managing funds for the agreement, if MAG makes arrangements for such

services. The proposed rule requires MAG to sign the agreement and make the monthly payments to APHIS, but does not preclude MAG from using another agent to assist in collecting and managing the funds. Therefore, no change was made in response to this comment.

One commenter objected to the proposal because he considered the research on which it was based inconclusive. The research about which he raised most questions, however, concerned tests of ripe and overripe papayas under artificial, laboratory conditions. Those test results provided supplementary data of interest for our purposes only to the extent that they confirmed the findings of the primary research, conducted under normal field conditions. That primary research demonstrated that the fruit flies of concern do not infest papayas that are less than half-ripe. Our rule therefore limits papaya importations from Costa Rica to those that are less than half-ripe. Supplementary data about conditions under which ripe fruit may be infested is irrelevant to, and beyond the scope of, our rule.

Additional research-related concerns raised by this commenter are discussed below.

Comment: Low populations of Medfly and *Anastrepha* spp. at the time the cited research was conducted raise questions about the general validity of conclusions drawn.

Response: Fruit fly populations in nature can be expected to fluctuate in response to any number of pressures: Lack of host material, high predator populations, treatments, or poor climatic conditions, for example. We do not believe that the observations regarding relative population density (low) detracts significantly from the validity of the data, because of the controls built into the field trials. Because the fruit flies of concern were present when the research was conducted, and supplementary infestation studies reinforced the field data, we have confidence in the scientific basis of our rule.

Comment: Early instar larvae might have been overlooked during the examination of harvested fruit.

Response: We disagree. Taking into account the fact that 111,196 fruit were dissected during the course of 31 months, and that all dissections took place under controlled laboratory conditions, we believe the researchers had ample opportunity to encounter at least a few early instars, if present, and assess and adjust detection techniques, if appropriate.

Miscellaneous

We have made minor, nonsubstantive editorial changes for clarity. The numbering of this provision has been changed from "u" in the proposal to "w" because of final rules on pummelo from Israel (§ 319.56-u) and citrus from Australia (§ 319.56-v) published in the interim.

Executive Order 12291 and Regulatory Flexibility Act

This rule has been reviewed in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule will allow the Solo type of papaya to be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica, without treatment, under certain conditions.

Costa Rica produces about 8 million pounds of papaya per year. Currently, Costa Rica does not export any fresh papaya to the United States. The Department estimates that approximately 49,000 pounds of fresh papaya may be imported into the United States annually from Costa Rica after this rule becomes effective.

Current U.S. production of papaya totals 68.5 million pounds. Papayas are produced commercially on about 300 farms in Hawaii. Nearly 65 percent of these farms are owned by individuals whose major occupation is not farming, and about 90 percent of these farms are small entities with average revenues of less than $300,000 per year. Hawaii ships about 19.8 million pounds of fresh papaya per year to the mainland, mostly to the West Coast. About 75 percent of these papaya are sold directly to retailers and the rest to wholesalers.

About 11.5 million pounds of fresh papaya (both Solo type and other), valued at about $2.4 million, are imported into the continental United States each year. Most of the papaya comes from Mexico (56.8 percent), the Bahamas (31.6 percent), and Belize (7.6 percent). The Bahamas and Belize provide the Solo type papaya.

Imports of the Solo type of papaya (about 4.9 million pounds) represent approximately 20 percent of the total supply of Solo type available for consumption. An addition of 49,000 pounds of the Solo type papaya annually from Costa Rica would increase the total available supply by about 0.2 percent. This estimated increase in the domestic supply is unlikely to have any significant impact on U.S. papaya prices and, in turn, on U.S. papaya producers, consumers, or any small entities.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This final rule allows the Solo type of papayas to be imported from three provinces in Costa Rica into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands. State and local laws and regulations regarding papayas imported under this rule would be preempted while this fruit is in foreign commerce. Fresh papayas are generally imported for immediate distribution and sale to the consuming public, and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect is to be given to this rule. This rule does not require administrative proceedings before parties may file suit in court.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection provisions included in this rule will be submitted for approval to the Office of Management and Budget.

List of Subjects in 7 CFR Part 319

Agricultural commodities, Fruit,

Imports, Plant diseases and pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 is revised to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167; 21 U.S.C. 136a; 7 CFR 2.17, 2.51, and 371.2(c), unless otherwise noted.

2. In Subpart—Fruits and Vegetables, a new § 319.56–2w is added to read as follows:

§ 319.56–2w Administrative instruction; conditions governing the entry of papayas from Costa Rica.

The Solo type of papaya may be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica, only under the following conditions:

(a) The Costa Rican Ministry of Agriculture and Livestock (MAG) has entered into a trust fund agreement with the Animal and Plant Health Inspection Service (APHIS) to pay for services to be provided by APHIS. This agreement requires the MAG to pay at least a month in advance all estimated costs incurred by APHIS in providing the services prescribed in paragraph (b) of this section. These costs will include administrative expenses incurred in providing the services; and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by APHIS inspectors in providing these services. The agreement requires MAG to deposit a certified or cashier's check with APHIS for the amount of these costs for an entire month, as estimated by APHIS, based on projected shipping volumes and cost figures from previous inspections. The agreement further requires that, if the deposit is not sufficient to meet the actual costs incurred by APHIS, MAG must deposit with APHIS a certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected costs, MAG must deposit with APHIS a certified or cashier's check sufficient to meet such costs as estimated by APHIS, before any further inspection services will be provided. If the amount MAG deposits during a month exceeds the total costs incurred by APHIS in providing the services, the difference will be returned to MAG by APHIS at the end of the month, or, at the option of MAG, credited to the MAG account for future services.

(b) An APHIS inspector in Costa Rica certifies that the following requirements have been met:

(1) The papayas were grown and packed for shipment to the United States in the provinces of Guanacaste, San Jose, and Puntarenas.

(2) Beginning at least 30 days before harvest begins and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were ½ or more ripe (more than 25 percent of the shell surface yellow), and all culled and fallen fruits were removed from the field at least twice a week.

(3) When packed, the papayas were less than ½ ripe (the shell surface was no more than 25 percent yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(4) The papayas were packed in an enclosed container or under cover so as to prevent access by fruit flies and other injurious insect pests, and were not packed with any other fruit, including papayas not qualified for importation into the United States.

(5) All activities described in paragraphs (a) through (d) of this section were carried out under the general supervision and direction of plant health officials of the MAG.

(6) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least once weekly by plant health officials of the MAG. Fifty percent of the traps were of the McPhail type and fifty percent of the traps were of the Jackson type. The MAG kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors. The records were maintained for at least 1 year.

Done in Washington, DC, this 18th day of June 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–14732 Filed 6–22–92; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 1211

[FV–91–277]

RIN: 0581–AA50

Pecan Promotion and Research Plan; Subpart C—Rules of Practice Governing Proceedings on Petitions To Modify or To Be Exempt From a Plan

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule specifies rules of practice governing proceedings on petitions filed by persons subject of the Pecan Promotion and Research Plan (Plan) to modify or to be exempted from the Plan. Under the final Plan, a national program of industry-funded promotion and research will be conducted. The final Plan was published in the May 1, 1992, issue of the **Federal Register** [57 FR 18797]. This action is needed to provide persons subject to the Plan an administrative remedy should any of those persons believe the Plan, any of its provisions, or any provision of the rules and regulations issued under the Plan are not in accordance with law.

DATES: Effective June 23, 1992. Comments which are received by July 23, 1992 will be considered prior to the issuance of any final rule.

ADDRESSES: Interested persons may submit written comments concerning this interim final rule to: Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, P.O. Box 96456, room 2533–S, Washington, DC 20090–6456. Three copies of all written material should be submitted, and they will be made available for public inspection in the Office of the Docket Clerk, FV, AMS, USDA, room 2533 South Building, 14th and Independence Avenue SW., during regular business hours. All comments should reference docket number FV–91–277 and the date and page number of this issue of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jim Wendland, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2533–S, Washington, DC 20090–6456, telephone (202) 720–9916.

SUPPLEMENTARY INFORMATION: This interim final rule is issued under the Pecan Promotion and Research Plan (7 CFR part 1211). The Plan is effective pursuant to the Pecan Promotion and

Research Act of 1990 (Act) (7 U.S.C. 6001).

This interim final rule has been reviewed by the U.S. Department of Agriculture (Department) in accordance with Departmental Regulation 1512–1 and the criteria contained in Executive Order No. 12291 and has been determined to be a "non-major" rule.

This interim rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This interim rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 1913 of the Act, a person subject to a plan may file a petition with the Secretary stating that such plan, a provision of such plan or an obligation imposed in connection with such plan is not in accordance with law; and requesting a modification of the plan or an exemption from the plan. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which such person resides or carries on business has jurisdiction to review the Secretary's ruling on the petition, if a complaint is filed within 20 days after the date of entry of a ruling by the Secretary.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

The most recent available census of agricultural producers indicates that over 21,000 farms in the United States reported having pecan trees. The majority of these producers are subject to the provisions under the Plan and are classified as small businesses. Producers or growers engaged in the production and sale of pecans are subject to being assessed under the Plan. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms, which include pecan handlers, shellers, grower-shellers, and importers, have been defined as those having annual receipts of less than $3,500,000. Also, there are approximately 2,000 pecan handlers, 115 shellers, and 25 importers who will be subject to the provisions of the Plan, the majority of whom are also classified as small entities.

Pecan production increased sharply between the early 1970's and the 1980's, with most of the increase in improved varieties. Average production of improved varieties increased from 109 million pounds in 1970–1974 to 173 million pounds in 1981–1988, a 59 percent increase. For the same periods all pecan production increased from 199 million pounds to 268 million pounds or 33 percent.

The series of large crops from 1981 to 1988 resulted in large carryovers and kept season average grower prices for improved varieties below 80 cents per pound with an average of 69 cents per pound.

A short crop of 205 million pounds, due in part to dry weather in the Southeast in 1990 reduced the burdensome supplies and the grower price for improved varieties increased to a record $1.28 per pound. The 1991 crop was also below average, and the average price for improved varieties was the same as that in 1990.

The industry still has the capacity to produce large crops, such as those in the 1980's. Consequently, the research and promotion program is needed to help to bring demand in line with current production capacity.

Until recently pecan imports were not a problem but in several years since 1985 imports have exceeded 10 percent of domestic production. Therefore, assessing imports is appropriate.

During the 1990–91 crop year, 245.5 million pounds of pecans were produced in the United States. Pecan imports reported by the Foreign Agricultural Service for 1990–91 reached approximately 66 million pounds (in-shell weight). Approximately 90 percent of these imports were from Mexico and the remaining 10 percent were from Australia.

This action establishes rules of practice governing proceedings on petitions filed by persons subject to the Plan to modify or be exempted from the Plan or any provision thereof. Such petitions could be made by any person subject to the Plan who believes that the Plan, or a provision of such Plan, or any obligation imposed in connection with the Plan, is not in accordance with law.

The Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The Act authorizes the development of a nationally coordinated program of market promotion and research designed to improve the position of pecans in the marketplace. The final rule establishing the Plan was published in the May 1, 1992, issue of the **Federal Register** (57 FR 18797).

Section 1913 of the Act provides that any person subject to the Plan may file a written petition with the Secretary stating that the Plan or any provision of the Plan, or an obligation imposed in connection with such Plan, is not in accordance with law. The person may request a modification of the Plan or an exemption from certain provisions or obligations of the Plan. The Act further provides that the petitioner shall be given an opportunity for a hearing on the petition, in accordance with regulations prescribed by the Secretary.

These procedures follow closely the rules established for petition procedures in connection with similar research and promotion programs established under other legislation.

It is found that the rule as hereinafter set forth will tend to effectuate the declared policy of the Act.

Pursuant to the provisions in 5 U.S.C. 553, it is found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because: (1) It is necessary that procedural rules be in place so that persons subject to the Plan may petition for relief under the Plan as soon as practicable after the issuance of the Plan which became effective on May 1, 1992; (2) a 30-day comment period is provided; (3) this action imposes no additional requirements on the pecan industry; and (4) no time is needed by the industry to prepare for this action.

List of Subjects in 7 CFR Part 1200

Administrative practice and procedure, Advertising, Agricultural research, Imports, Marketing agreements, Pecans, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, title 7 part 1211 is amended as follows:

PART 211—[AMENDED]

1. The authority citation for part 1211 continues to read as follows:

Authority: The Pecan Promotion and Research Act of 1990; 7 U.S.C. 6001 *et seq.*

2. The table of contents in Part 1211 is amended by adding subparts B and C to read as follows:

Subpart B—[Reserved]

Subpart C—Rules of Practice Governing Proceedings on Petitions to Modify or To Be Exempted From the Plan

Sec.
1211.250 Words in the singular form.
1211.251 Definitions.
1211.252 Institution of proceeding.

3. The subpart A heading is added immediately following the authority citation to read as follows:

Subpart A—Pecan Promotion and Research Plan

Subpart B—[Reserved]

4. A new Subpart B is added and reserved.

5. A new Subpart C is added to read as follows:

Subpart C—Rules of Practice Governing Proceedings on Petitions To Modify or to be Exempted from the Plan

§ 1211.250 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

§ 1211.251 Definitions.

Unless otherwise defined in this subpart, definitions of terms used in this subpart shall have the same meaning as the definitions in subpart A—Pecan Promotion and Research Plan.

(a) *Judge* means any administrative law judge, appointed pursuant to 5 U.S.C. 3105, and assigned to the proceeding involved.

(b) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated, or may hereafter be delegated, to act in the Administrator's stead.

(c) *Person* means any individual, group of individuals partnership, association, corporation, cooperative, or any other legal entity subject to a Plan or to whom a Plan is sought to be made applicable or on whom an obligation has been imposed or is sought to be imposed under a Plan.

(d) *Proceeding* means a proceeding before the Secretary arising under Section 1913 of the Act.

(e) *Hearing* means that part of the proceedings which involves the submission of evidence.

(f) *Party* includes the U.S. Department of Agriculture.

(g) *Hearing Clerk* means the Hearing Clerk, U.S. Department of Agriculture, Washington, DC.

(h) *Decision* means the judge's report to the Secretary and includes the judge's:

(1) Findings of fact and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis thereof;

(2) Order; and

(3) Rulings on findings, conclusions, and orders submitted by the parties; and

(i) *Petition* includes an amended petition.

§ 1211.252 Institution of proceeding.

(a) *Filing and service of petitions.* Any person subject to a Plan desiring to complain that such Plan or any provision of such Plan or any obligation imposed in connection with a Plan is not in accordance with law, shall file with the Hearing Clerk, in quintuplicate, a petition in writing addressed to the Secretary. Promptly upon receipt of the petition in writing the Hearing Clerk shall transmit a true copy thereof to the Administrator and the General Counsel, respectively.

(b) *Contents of petitions.* A petition shall contain:

(1) The correct name, address, and principal place of business of the petitioner. If the petitioner is a corporation, such fact shall be stated, together with the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions held by its officers and directors; if an unincorporated association, the names and addresses of its officers and the respective positions held by them; if a partnership, the name and address of each partner;

(2) Reference to the specific terms or provisions of the Plan, or the interpretation or application of such terms or provisions, which are complained of;

(3) A full statement of the facts, avoiding a mere repetition of detailed evidence, upon which the petition is based, and which it is desired that the Secretary consider, setting forth clearly and concisely the nature of the petitioner's business and the manner in which petitioner claims to be affected by the terms or provisions of the Plan or the interpretation or application thereof, which are complained of;

(4) A statement of the grounds on which the terms or provisions of the Plan, or the interpretation or application thereof, which are complained of, are challenged as not in accordance with law;

(5) Requests for the specific relief which the petitioner desires the Secretary to grant; and

(6) An affidavit by the petitioner, or, if the petitioner is not an individual, by an officer of the petitioner having knowledge of the facts stated in the petition, verifying the petition and stating that it is filed in good faith and not for purposes of delay.

(c) *A motion to dismiss a petition: Filing, contents, and responses to a petition.* If the Administrator is of the opinion that the petition, or any portion thereof, does not substantially comply, in form or content, with the Act or with requirements of paragraph (b) of this section, the Administrator may, within 30 days after the filing of the petition, file with the Hearing Clerk a motion to dismiss the petition, or any portion of the petition, on one or more of the grounds stated in this paragraph. Such motion shall specify the grounds for objection to the petition and, if based, in whole or in part, on allegations of fact not appearing on the face of the petition, shall be accompanied by appropriate affidavits or documentary evidence substantiating such allegations of fact. The motion may be accompanied by a memorandum of law. Upon receipt of such motion, the Hearing Clerk shall cause a copy thereof to be served upon the petitioner, together with a notice stating that all papers to be submitted in opposition to such motion, including any memorandum of law, must be filed by the petitioner with the Hearing Clerk not later than 20 days after the service of such notice upon the petitioner. Upon the expiration of the time specified in such notice, or upon receipt of such papers from the petitioner, the Hearing Clerk shall transmit all paper which have been filed in connection with the motion to the judge for the judge's consideration.

(d) *Further proceedings.* Further proceedings on petitions to modify or to be exempted from the Plan shall be governed by §§ 900.52(c)(2) through 900.71 of the Rules of Practice Governing Proceedings on Petitions to Modify or to be Exempted from Marketing Orders and as may hereafter be amended, and the same are incorporated herein and made a part hereof by reference. However, each reference to *marketing order* shall mean *Plan.*

Dated: June 17, 1992.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 92-14726 Filed 6-22-92; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 91-170-2]

Specifically Approved States Authorized To Receive Mares and Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are adding New Jersey to the list of States approved to receive certain mares and stallions imported into the United States from countries affected with contagious equine metritis (CEM). We are taking this action because New Jersey has entered into an agreement with the Administrator of the Animal and Plant Health Inspection Service to enforce its State laws and regulations to control CEM and to require inspection, treatment, and testing of horses, as required by Federal regulations, to further ensure the horses' freedom from CEM. This action relieves unnecessary restrictions on importers of mares and stallions from countries affected with CEM.

EFFECTIVE DATE: July 23, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Manuel A. Thomas, Jr., Senior Staff Veterinarian, Sheep, Goat, Equine and Poultry Diseases Staff, VS, APHIS, USDA, room 769, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6954.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 92, §§ 92.301(c)(2), 92.304(a)(4)(ii) and 92.304(a)(7)(ii), allow certain horses (mares and stallions over 731 days old) to be imported into the United States from certain countries where contagious equine metritis (CEM) exists if specific requirements to prevent their introducing GEM into the United States are met and the horses are consigned to approved States for further inspection, treatment, and testing.

Mares and stallions over 731 days old must be consigned to States which have been approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS) as meeting conditions necessary to ensure that the horses are free of CEM. These conditions, which concern inspection, treatment, and testing of the horses, are contained in § 92.304(a)(5) of the regulations for stallions and in § 92.304 (a)(8) for mares. New Jersey has agreed to abide by the regulations concering horses imported from countries where CEM exists, and has entered into a written agreement with the Administrator, APHIS, to enforce its State laws and regulations which meet the requirements of § 92.304(a)(5) and § 92.304(a)(8) of the regulations, to control CEM.

On January 28, 1992, we published in the **Federal Register** (57 FR 3144-3145, Docket Number 91-170), a proposal to add New Jersey to the list of States approved to receive mares and stallions that are over 731 days old and imported into the United States from certain countries where CEM exists. We solicited comments on the proposed rule, which were required to be received on or before March 30, 1992. We received one comment in support of the proposed rule. Based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule without change.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this final rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

We anticipate that fewer than 30 mares and stallions over 731 days old will be imported into the State of New Jersey annually from countries where CEM exists. Approximately 200 mares and stallions over 731 days old and from countries where CEM exists were imported into the entire United States in fiscal year 1991. During this same period, approximately 31,407 horses of all classes were imported into the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This final rule had been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

Accordingly, 9 CFR part 92 is amended as follows:

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS: INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

1. The authority citation for part 92 continues to read as follows:

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

§ 92.304 [Amended]

2. In § 92.304, paragraphs (a)(4)(ii) and (a)(7)(ii) are amended by adding "The State of New Jersey" in alphabetical order.

Done in Washington, DC this 18th day of June 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-14731 Filed 6-22-92; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 92

[Docket No. 91-167-2]

Mexican Border Ports; Santa Teresa, New Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that added Santa Teresa, NM, to the list of Mexican border ports of entry for ruminants and allows, under certain conditions, cattle that have been exposed to splenetic, southern, or tick fever, or that have been infested with or exposed to fever ticks, to be imported from Mexico through the border port of Santa Teresa, NM, for admission into the State of Texas.

EFFECTIVE DATE: June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel Richeson, Import-Export Animals Staff, VS, APHIS, USDA, room 764, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8170.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** and effective January 17, 1992 (57 FR 2009-2010, Docket No. 91-167), we amended the animal importation regulations by adding Santa Teresa, NM, to the list of Mexican border ports of entry for ruminants. Additionally, we provided that cattle that have been exposed to splenetic, southern, or tick fever, or that have been infested with or exposed to fever ticks, may, under certain conditions, be imported from Mexico through the border port of Santa Teresa, NM, for admission into the State of Texas.

We required that comments on the interim rule be received on or before March 17, 1992. The only comment we received was from a veterinary medical association, which fully supported the interim rule. The facts presented in the interim rule still provide a basis for the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

The interim rule we are affirming added Santa Teresa, NM, to the list of Mexican border ports of entry for ruminants and allows, under certain conditions, cattle that have been exposed to splenetic, southern, or tick fever, or that have been infested with or exposed to fever ticks, to be imported from Mexico through the border port of Santa Teresa, NM, for admission into the State of Texas.

Prior to the publication of that interim rule, importers were able to import cattle from Mexico through the border port at El Paso, TX. We were advised that the El Paso, TX, inspection facility for cattle would, in the near future, no longer be used for that purpose. At the time, the nearest approved Mexican land border ports were located more than 100 miles from El Paso, TX. By adding Santa Teresa, NM, which is located less than 10 miles from El Paso, TX, to the list of Mexican border ports of entry for ruminants, we were able to minimize the economic impact that the closure of the El Paso, TX, cattle inspection facility would have on importers that had been using the facility.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock & livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, we are affirming, without change, the interim rule amending 9 CFR 92.403 and 9 CFR 92.427 that was published at 57 FR 2009-2010 on January 17, 1992. Q04

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 31 U.S.C. 9701; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 18th day of June 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-14729 Filed 6-22-92; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 90-007F]

RIN 0583-AB31

Removal of Piece-Size Requirements and Packaging Limitations of Imported Fresh or Cured Meat and Meat Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations by removing the restrictions that prohibit the importation into the United States of individual pieces or trimmings of fresh or cured meat smaller than 2-inch cubes or pieces of comparable size. Specifically, FSIS is deleting the requirements for piece-size restrictions and net weight limitations for packages of imported fresh or cured meat or meat trimmings. FSIS is also deleting the reference to the 2-inch cube

requirement, which states that individual pieces or trimmings must not be smaller than a 2-inch cube or a piece comparable in size. Thus, this final rule will allow meat products such as ground, diced and comminuted meats, meat patties and loaves, chopped steaks, sausages and other fresh or cured meat products in less than 2-inch cubes to be imported into the United States without any net weight restrictions. FSIS will continue to conduct all reinspection activities necessary to ensure that the imported meat products are wholesome, unadulterated, and properly labeled. In addition, this rule will have no effect on Animal and Plant Health Inspection Service's requirements concerning meat products from disease-restricted countries.

EFFECTIVE DATE: The effective date for this rule is July 23, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. G. Edward McEvoy, Director, Program Development Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–8435.

SUPPLEMENTARY INFORMATION: .

Executive Order 12291

The Administrator has determined that this rule is a non-major rule under Executive Order 12291 because: (1) It will not have an annual effect on the economy of $100 million or more; (2) It will not result in a major increase in costs or prices for consumers, individual industries, Federal , State or local government agencies, or geographic regions; and (3) It will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in foreign or domestic markets. In the proposal, the Agency invited interested parties to submit comments on what type of meat products would enter the United States as well as data on the economic impact of this rule change. While the comments are discussed later, it should be noted that only ten parties submitted comments and only four of them expressed concern that the rule change could have a negative impact on the U.S. economy and only one expressed concern over possible health related problems. Although the small number of commenters does not minimize the importance of each comment, it does suggest that the final rule will not have a major impact on the U.S. economy. Notwithstanding this opinion, the Administrator examined several economic factors concerning meat imports and the U.S. meat industry and made the following observations:

Share of the U.S. Meat Market by Imports is Small

During 1989, U.S. imports of fresh meat (exclusive of head meat, tongue, and other edible organs) totaled 2 billion pounds and U.S. meat production consisted of 39.6 billion pounds. With a total U.S. meat supply of 41.6 billion pounds, imports represented about 4.8 percent of this amount; a figure that has increased by only 1.7 percent since 1974.

Quantitative Limits on Imports of Fresh Meat

The U.S. government imposes access barriers on imported fresh meats through the Meat Import Act of 1964, as amended in 1979 (Pub. L. (96–177). This Act subjects beef, veal, mutton and goat imports to tariffs, an annual import quota and, when necessary, voluntary restraint agreements (VRAs). In addition to the Meat Import Act, the U.S. government imposes countervailing duties upon foreign product when it has been determined that unfair subsidies or other acts performed by a foreign government enhances their product's marketability (e.g., price). Countervailing duties, which usually are equal to the subsidy funded by the exporting country, are currently assessed on lamb products from New Zealand and until June, 1991 were assessed on pork products from Canada. Through the use of tariffs, quotas, VRAs, and countervailing duties, the U.S. government assists the domestic meat industry in combating unfair trade practices used by foreign governments to aid their meat industry.

Increase in Imports of Fresh Meat Would Appear To Be Insignificant

A. During 1989, imports of fresh beef (1.4 billion pounds) constituted nearly 70 percent of the 2 billion pounds of fresh and cured meat imported into the United States. Ninety-eight percent of the beef imports originated in five countries and consisted primarily of grass-fed, boneless lean beef which historically has had a narrow, well-defined U.S. market and has not been competitive with U.S. grain-fed, high quality beef. This narrow market results from the limited utility of grass-fed lean meat, which usually requires the addition of fat beef trimmings to produce a product which is considered marketable in the United States. Although there has been an increasing demand in the United States for leaner meat products, it is unknown whether an increase of foreign lean meat in the domestic meat market would have any effect on the total U.S. meat production.

B. An increase in imports of boneless beef would be possible as smaller pieces of meat, e.g., wizard knife trimmings, would be acceptable under the proposed rule. However, considering that trimmings of this nature usually amount to a negligible percentage of the total carcass weight, the availability of this additional product would have little potential impact on the U.S. meat industry.

C. Opposing comments stated that removing the piece-size restrictions would lead to major increases in ground beef imports. Such increases would then assure more frequent triggering of the meat import quota that would, in turn, cause major market disruptions and adversely affect many meat processors, especially small processors. The Department has concluded that because of the higher duties on ground imported products and the economics of using imported ground beef, removing the restrictions should have little affect on the meat import quota. The duty on boneless beef in pieces larger than 2-inch cubes is 2 cents per pound. The duty on processed beef products such as ground beef would be 10 percent of value or approximately $.13 per pound based on 1992 wholesale values for 90 percent lean beef. The economics of grinding the lean product abroad and then mixing it with fat beef trimmings in the United States for the American hamburger market would not encourage importing ground lean beef. Costs for the two processes would be higher than simply grinding and mixing simultaneously in the United States.

D. It has also been suggested that the increase in imports would be in the form of coarse ground beef, i.e., a more homogeneous product commanding a few cents more per pound than boneless beef. However, (1) the utility of imported coarse ground beef is similar to that of boneless beef, i.e., is usually dependent upon being mixed with fat beef trimmings to produce a marketable ground beef product; (2) the higher duty also applies to coarse ground beef, and (3) coarse ground beef usually has a limited end-item usage and a shorter shelf life than boneless meat. Therefore, it is unlikely that there will be a substantial U.S. market for foreign coarse ground beef because of these deterrents.

E. Of the three major types of meat imported into the United States (beef, pork, and lamb), it could be argued that an increase in U.S. imports of fresh ground pork and lamb is more likely

than an increase in beef imports since these products have lower duties and are more comparable to U.S. products in quality and market acceptability. The 10 percent duty does not apply to ground pork or lamb. The duty on ground port from Canada is 0.2 cents per pound. The duty on ground pork from other countries is 2 cents per pound. A countervailing duty with Canada covers only live hogs and does not cover imported pork products. However, a countervailing duty does apply to lamb imported from New Zealand. The duty is so small that collection of the duty is being waived. Considering the level of applicable duties and the comparability of product, it would appear that this rule would open the door for substantial increases in imported ground lamb or pork. However, these ground products do not enjoy a strong market in the United States, and any increases of ground pork or lamb imports following removal of the piece-size restrictions are not expected to be substantial compared to the overall level of 2 billion pounds of meat imports.

The final rule will allow eligible foreign countries to export, in any size package, fresh or cured meat products of less than 2-inch cubes to the United States. While the Agency believes that this rule will, most likely, lead to some changes in the volume and type of meat imports, it will also increase competition in the domestic meat market, assure fair prices for U.S. consumers, and potentially lead to reciprocal actions that could enhance U.S. exports, i.e., this final rule may give the U.S. meat industry freer access to international markets as other countries follow the U.S. lead and eliminate the same restrictions.

Removing the piece-size requirements will eliminate a trade barrier that restricts the products that can enter the United States. This change provides meat processors with alternative sources of raw materials. Increased flexibility for raw materials generally leads to decreased production costs. Lower production costs could be passed on to consumers in terms of lower retail prices. Actions that promote free and open trade can have a positive impact on other trade issues. While the direct benefits of this action may be limited, any move to eliminate trade barriers can stimulate similar actions from other trading partners that could substantially enhance U.S. exports.

The final rule will also ease the reinspection burden on the Agency and importing industry by reducing the reinspection time at U.S. ports-of-entry because import inspectors will not be required to determine whether certain imported meat products have met specific piece-size and net weight requirements. It should be stressed that this rule will in no way diminish or compromise FSIS's role in ensuring that imported product complies with all other U.S. inspection requirements.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this rule is adopted, all State and local laws, regulations or policies, except those that are consistent with the rule and apply to imported meat and meat products after entry into the United States are preempted. This rule is not intended to have retroactive effect. There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the implementation of its provisions.

Effect on Small Entities

In examining the small entities in the U.S. meat industry, it appears that one group which may be affected by this final rule is the ground beef processors who depend upon imported manufacturing meat for their grinding operations. Accordingly, the rule may decrease the amount of manufacturing meat imported into the United States if the domestic market demands imported ground beef and the import quota levels remain the same. However, because of the marketing constraints and higher duty applicable to imported ground beef, it is unlikely that any change in the amount of imported manufacturing meat will have a negative affect on the U.S. ground beef processors. In addition, the Agency believes that the rule will have a positive affect on the U.S. meat industry as other countries will more than likely follow the United States' lead on this restriction and remove the 2-inch cube requirement. As a result, there will be an increase of U.S. ground beef and other processed meat products in international meat markets.

Therefore, the Administrator has made the determination that the final rule will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

Background

Pursuant to the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Secretary of Agriculture is responsible for administering the programs which ensure that meat and meat food products (including imports) distributed to consumers are wholesome, not adulterated, and marked, labeled and packaged. The Secretary of Agriculture has delegated to the Administrator of FSIS the authority to issue regulations which will ensure compliance with the requirements of the FMIA. Accordingly, the Federal meat inspection regulations contain requirements applicable to the importation of meat and meat food products into the United States (9 CFR part 327).

9 CFR 327.3(b) of the Federal meat inspection regulations prohibits the importation into the United States of ground, diced, and comminuted meats; meat patties and loaves; sausages and other fresh or cured meat products or trimmings that consist of components smaller than 2-inch cubes or pieces comparable in size. However, such processed products could be imported provided they were in labeled containers meeting certain net weight requirements, i.e., not more than 3 pounds net weight for ground or comminuted meats; not more than 10 pounds net weight for patties, loaves, chopped steaks, sectioned and formed or ground and formed meat products, and similar type products; and suitable retail size packages for sausages and canned meat.

FSIS is amending 9 CFR part 327 of the Federal meat inspection regulations by removing these restrictions in response to petitions submitted by Alsmeyer Food Consulting, Potomac, Maryland, in 1988 and 1989, and requests made by the Australian government at meetings with FSIS in September 1989, and April 1990. Alsmeyer Food Consulting requested that the regulations be amended to allow the importation of ground lamb packaged in 5-pound and 25-pound containers and diced lamb meat in 5-pound containers. The Australian government requested that the regulations be amended to remove the restrictions to import meat food products described in 9 CFR 327.3(b). The Australian government stated that it maintains an inspection system using "equal to" quality assurance programs to ensure that small pieces of meat meet U.S. standards regardless of the size of the package. Since these meat food products are inspected in Australia and data are available to verify that these products meet U.S. standards, the Australian government stated that the present restrictions on importation constitute a non-tariff trade barrier because there are no similar restrictions on these products produced in the United States.

Piece-size restrictions for imported meat products were enacted as early as

1922 when the Federal meat inspection regulations stated in part that, "no meat trimmings in pieces too small to permit of adequate inspection upon arrival shall be admitted into the United States" (BAI order 211 rev., September 1, 1922). It is believed that inspection procedures at the time were lacking the sophistication needed to detect unwholesome or adulterated product if the meat pieces were to small. In 1970, the regulations were revised by retaining the 1922 requirement and adding the limitation that pieces or trimmings of imported meat could not be smaller than 2-inch cubes or pieces comparable in size (35 FR 15610). The 1970 rule change also added exceptions to the rule which permitted the importation of pieces of meat smaller than 2-inch cubes provided they were packaged in sizes suitable for retail sale. Because these exceptions have been in effect since 1970 without incident, FSIS believes that removing the 2-inch cube rule will not provide the U.S. meat industry or consumers any basis for concern about the safety or integrity of imported meat products.

In 1979, regulations were implemented which changed the basic principles of the import inspection program. Prior to this regulatory change, the import inspection program focused on the performance of individual foreign plants. The current program employs the "systems approach" which assesses the effectiveness of a foreign government's inspection system and holds that government primarily responsible for assuring that establishments exporting product to the United States fully comply with inspection standards and controls "at least equal to" those of the United States. This is accomplished through two major activities: (1) A review of documentary information which provides initial determination of a foreign country's eligibility to export product to the United States, and (2) continual oversight to assure that a country maintains a system of inspection controls "at least equal to" that of the United States. FSIS examines the laws and regulations governing the country's inspection system for equivalency to U.S. standards and requires a foreign country to respond to a series of questionnaires which focus on its inspection system in five major risk areas (residue control, prevention of diseased meat, processing, contamination, and compliance/economic fraud). If the information proves to be satisfactory, FSIS performs and on-site review to evaluate all aspects of the country's inspection operations. When this review is satisfactorily concluded, rulemaking is undertaken to certify that the country is eligible to import meat and/or poultry products into the United States. The country's meat inspection officials then may certify individual plants as meeting U.S. standards. Only after such certification is received by FSIS may these plants export products to the United States.

Once a country is certified, FSIS monitors its import inspection program through a continuing oversight function to assure that the foreign inspection system maintains the "at least equal to" requirements. This includes quarterly or semiannual on-site reviews of the foreign inspection system, and reinspections of a sample of foreign meat products at U.S. port-of-entry locations. The latter function is directed by a computerized system (Automated Import Information System) which stores daily reinspection results and uses the data to establish a performance-based sampling frequency for products presented for importation. A country's eligibility status may be revoked whenever the Administrator determines that the foreign inspection system does not assure compliance with "at least equal to" requirements. At that point, rulemaking is again undertaken to withdraw the country's eligibility to import meat into the United States. With the implementation of the "systems approach," FSIS has been able to operate a more effective import inspection program by emphasizing that foreign governments and producers have primary responsibility for ensuring product to be exported to the United States complies with U.S. requirements.

In the last decade, technological advancements in meat inspection, such as analytical testing, have further increased the efficiency and effectiveness of the import inspection program. For example, the Species Identification Field Test (SIFT) has provided the Agency with a rapid means to screen ground, comminuted and similar types of fresh meat products for economic adulteration. As a result, SIFT has been highly successful in verifying the effectiveness of foreign inspection systems as well as safeguarding consumers from incorrectly labeled meat products.

Partial quality control (PQC) programs have also proven to be beneficial in verifying the effectiveness of foreign inspection systems. As part of FSIS's label approval process, a foreign establishment must have an approved PQC program in-place before certain meat products (e.g., mechanically separated products) can enter U.S. commerce (9 CFR 319.5(c)(2)). PQC programs, which are systematic procedures describing the stages of preparation of a product, are designed to hold processors accountable for the compliance of that product with the requirements of the FMIA and the regulations promulgated thereunder. Similar programs are used to ensure that boneless meat complies with U.S. requirements before grinding. These programs allow FSIS to operate a more effective import inspection program by placing more responsibility on foreign governments and producers.

FSIS concludes that with the implementation of the "systems approach," the modernization of inspection techniques, and the effectiveness of PQC programs, there is no longer a need to restrict the importation of pieces of meat smaller than 2-inch cubes into the United States.

On August 13, 1991, FSIS published a proposed rule (56 FR 38361) to amend the Federal meat inspection regulations by removing the piece-size and packaging-size limitations applicable to imported fresh or cured meat products. The Department is finalizing this rule and, as a result, meat products such as ground and diced beef, pork, and lamb, and other fresh or cured meat products in less than 2-inch cubes will now be eligible for importation into the United States without any net weight restrictions.

Comments on the Proposed Rule

Comments on the August 13, 1991, proposal were received from ten interested parties which represented three meat-related trade associations, two foreign government agencies, two ground beef processors, a foreign quasi-government corporation, an importer, and an economic research and consulting firm whose comments were submitted on behalf of the two ground beef processors previously mentioned. Of the ten parties, six supported the proposal, three opposed it, and one commenter supported the removal of the piece-size requirement but opposed the removal of the packaging-size limitation.

In reviewing the comments, several issues were addressed but the majority of the comments discussed two major issues: health/safety and economics. The comments regarding those issues, and other comments, are summarized below for further discussion.

Health/Safety Issue

Seven commenters addressed this issue with six of the seven supporting removal of the piece-size restriction in recognition of FSIS's "equal to" system

for inspecting foreign meats and technological advancements in the inspection program. The other commenter felt that the piece-size restriction was a sound principle and removing the restriction would make it more difficult to inspect foreign meat for extraneous material.

Economic Issue

Eight of the ten commenters cited economic reasons as a basis for supporting or opposing the proposed rule. Supporters of the proposal strongly noted that, since there were no scientific reasons for the existing piece size and packaging size restrictions, the continuation of this rule would constitute a non-tariff trade barrier to foreign meat products. In addition, two supporters stated that removing the restrictions would not have a significant impact on the U.S. economy and would benefit American consumers with lower meat prices.

The commenters against the proposal strongly believe that the rule would have a serious impact on U.S. ground beef processors as foreign processors would begin exporting a finished ground beef product in lieu of boneless lean beef, a major import commodity used in manufacturing U.S. ground beef products. They also expressed concern about a possible devaluation of U.S. fat beef trimmings. This concern centers around the speculation that a combination of ground beef imports replacing domestic ground beef production and an increased production of foreign grain-fed cattle would lead to a saturated U.S. market of fat beef trimmings.

Opponents of the proposal further expressed concern on how the rule would disrupt the U.S. meat marketing system as an influx of ground beef products would displace traditional meat imports and/or contribute to the triggering of the meat import quota levels. These commenters speculated that without a compensating increase in the meat import quota amount, there would be a chaos in the U.S. meat marketing system and American consumers and the U.S. meat industry would realize an annual economic impact of over $100 million. In this connection, two opponents of the proposal requested that an in-depth economic study be conducted regarding the effects of the rule on the U.S. economy.

Other Comments

In addition to the health/safety and economic issues, other comments that were submitted in response to the proposed rule included the following: One party's only comment was to amend the proposal to include "cooked frozen" meat products in addition to "fresh or cured meat." The commenter further noted that this amendment would allow countries such as Argentina, Brazil and Uruguay to export cooked frozen beef in cubes of less than two inches. In reviewing this comment, we believe there may be a misunderstanding as FSIS does not have a regulation that restricts the piece size of cooked meat products entering the United States. We believe the piece-size restriction for frozen cooked beef that was referenced is associated with the Animal and Plant Health Inspection Service (APHIS) regulation concerning meat products from certain countries where exotic animal diseases occur. Accordingly, APHIS limits the importation of meat products from diseased-restricted countries (e.g., South American countries) to cooked meat only and has the responsibility in preventing the distribution of underprocessed meat products from these countries. In an agreement with APHIS to help enforce this regulation, FSIS inspects incoming frozen cooked beef by removing a solid piece of meat that is no smaller than a 1 and ½ inch cube and examining it for underprocessing. Any proposed changes to this regulation must be directed to APHIS officials.

Another commenter noted that the piece-size and packaging-size restrictions have outlived its usefulness and deletion of these restrictions will be in the spirit of international cooperation. Finally, three parties commented on the increasing demand in the United States for leaner meat products and expressed different opinions on the effects of the proposal relevant to this matter. One party commented on how the proposal would benefit American consumers with an increase in the availability of foreign lean meat; another party noted that with an increasing preference for lean meat by American consumers, a demand for foreign lean meat would have a negative effect on the U.S. meat industry; and the third party suggested that the proposal would encourage the importation of fat meat and limit the importation of lean meat, an item receiving greater emphasis in American consumer diets.

The Administrator has thoroughly evaluated all comments submitted in response to the proposal and has concluded that the piece-size and packaging-size restrictions were enacted as a health and safety measure and, because this is no longer an issue, the restrictions will be removed.

The economic issues addressed in the comments are discussed earlier in this document. After examining these issues, the Administrator has determined that, pursuant to Executive Order 12291, this action is a non-major rule, and a regulatory impact analysis is not required.

Regarding the concern to increase the quota amount under the meat import law to avert economic chaos in the U.S. meat marketing system, such action is mandated only by Congress through the Meat Import Act of 1964, as amended. It should be stressed that the Agency's responsibility is to ensure a safe supply of meat and poultry products and not to regulate market place decisions, i.e., the types of meat products that is traded between buyer and seller. Accordingly, the Agency has no authority in setting the meat import quota amounts.

List of Subjects in 9 CFR Part 327

Food labeling, Food packaging, Imports, Meat inspection.

Final Rule

For the reasons set forth in the preamble, FSIS is amending 9 CFR part 327 of the Federal meat inspection regulations as set forth below.

PART 327—IMPORTED PRODUCTS

1. The authority citation for part 327 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

§ 327.3 [Amended]

2. Section 327.3 is amended by deleting paragraph (b) and redesignating paragraphs (c) and (d) as (b) and (c), respectively.

§ 327.21 [Amended]

3. Section 327.21 is amended by deleting the second sentence of paragraph (a)(1).

Done at Washington, DC, on: June 2, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 92–14655 Filed 6–22–92; 8:45 am]

BILLING CODE 3410-DM-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Computer Programming, Data Processing and Other Computer Related Services

AGENCY: Small Business Administration.

ACTION: Interim final rule.

SUMMARY: The Small Business Administration (SBA) is revising its size standards on an interim basis for the nine industries in Standard Industrial Classification (SIC) Industry Group 737, "Computer Programming, Data Processing, and Other Computer Related Services," by increasing them to $14.5 million in average annual receipts. Currently the size standards are $7 million for six of these industries and $12.5 million for the three others. This action is being taken to establish a common size standard for all industries in the group and to better define small business. While putting this rule into effect on an interim basis, SBA wishes to solicit further comment on the adoption of an employee size standard of 150 employees for one, several, or all of the computer services industries. The receipts size standard would be discontinued if an employee size standard is adopted.

DATES: This Interim Rule is effective July 23, 1992; comments must be received on or before August 24, 1992.

ADDRESSES: Send comments to: Gary M. Jackson, Director, Size Standards Staff, U.S. Small Business Administration, 409 3rd Street, SW, suite 8150, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Harvey Bronstein, Size Standards Staff, Tel: (202) 205–6618.

SUPPLEMENTARY INFORMATION: On August 13, 1991 SBA published in the Federal Register (56 FR 38364) a proposed rule to establish size standards for the nine computer services industries at $14.5 million, or as an alternative, at 150 employees. The proposal was made to take account of certain definitional changes in the Standard Industrial Classification (SIC) System, to reflect changes in the basic structure of these industries, and to consider having a common size standard for closely related industries.

In making the proposal, SBA pointed to increases in Federal purchasing of computer services, the revision of the SIC System, definitional problems in identifying contracts with size standards and in identifying the SIC codes of firms. The increase in Federal contracts has served to focus attention on computer services. Revisions to the SIC System in 1987 changed from three to nine the number of industries associated with computer services. This resulted in classification uncertainties both in terms of assigning SIC codes to contracts and in assigning SIC codes to computer service firms.

Concern in these industries is due primarily to the small business procurement preference programs. In these a firm is considered small if its sales are equivalent to or less than the size standard for the industry describing the principle purpose of the contract. Thus the correct size standard is critical in deciding if a firm is defined as small and thereby eligible to benefit from these programs.

Changes in the way computer service firms do business were also considered. It is common for computer services firms to operate in more than one industry, and there are nine industries which comprise the Computer Services industry group (SIC code 7371 through 7379). The Government may also require services identified with more than one computer service industry on a single contract, or require a mix of both computer services and equipment. Although a procurement must be classified in one SIC, firms that are primarily active in other industries may compete on the procurement if they can satisfy the terms of the procurement.

While putting this rule into effect on an interim final basis, SBA is interested in receiving further comments on the issue of a receipts versus an employee-based size standard.

Some commenters, particularly those providing integrated systems design, indicated that they are occasionally required to provide equipment to a customer as part of a service contract. This means the firm is partly providing equipment—a wholesale function—as a convenience for the customer. As a result this increases the size of a contract, even though the computer service firm itself adds little value to the contract. The commenters' concern is that if there are equipment purchases associated with a Federal computer services contract, it might raise the size of a firm otherwise defined as small beyond a small business definition expressed in dollars. For this reason, SBA is interested in finding out whether this is a frequent problem and whether a 150-employee size standard would be preferable to the $14.5 million size standard for one, several or all of the computer services industries. (SBA has determined that a business with 150 employees would be approximately equivalent in size to one with $14.5 million in average annual receipts.)

To date, the comments received by SBA on this point have indicated either anecdotal or exceptional instances of equipment purchases causing a business to lose small business status. Although SBA recognizes that equipment purchases can increase a firm's size above the size standard, this may be limited to cases where a firm is already close to the size standard as a result of the firm receiving an unusually large contract. In fact no matter what size standard SBA adopts for a particular industry, there are always firms at or near the size standard. As such SBA is adopting on an interim final basis its proposed $14.5 million size standard. However, SBA specifically invites further comments addressing the issue of the magnitude of this problem, whether it occurs for all or only some of the nine computer services industries, and whether a 150 employee size standard would or would not adequately address the issue. If, as a result of further comments, SBA adopts an employee-based size standard, the $14.5 million size standard would be discontinued.

Comments to Proposal

During the 60-day comment period to the August 13, 1991 proposal, SBA received 36 letters, seven of which were from Federal agencies. Thirty-three commenters were in favor of increasing the size standards, including six of the Government commenters. There are particularly strong support for increasing the size standards from 12 firms identifyng themselves as providing computer services to the Government through the 8(a) program.

While this reaction indicates support for the proposal, there was considerable diversity among the supporters. Not every favorable comment agreed with all aspects of the proposal. For example, opinion was about equally divided between using employees versus using average annual receipts as the unit of measure for the size standard. Also while most commenters endorsed raising the size standards, some urged levels even higher than the ones proposed. Still others, while responding favorably, felt that some of the nine industries should have different size standards in contrast to the uniform approach of the proposal. While almost all commenters favored the proposed higher size standards, one commenter opposed any increase, arguing that the present size standards better addressed the needs of small businesses in these industries.

Response to Comments

Employees Versus Average Annual Receipts

SBA proposed as an alternative a size standard of 150 employees, equivalent to $14.5 million in receipts. This was intended to address concerns that the provision of high cost equipment is sometimes combined with service requirements within a given Government contract. An example is

computer systems integration. When the provision of equipment is required as part of a computer services contract, it makes the size of the contract larger than it would be had the services alone been required. However, in many circumstances the service provider is merely a conduit for the equipment and not its manufacturer. Thus the inclusion of equipment sales in a number of contracts could cause a firm to exceed the size standard, though its actual size had not increased. A firm in this situation would be ineligible for future contracts as a small business compared to the situation had services alone been required.

Ten commenters favored the use of a receipts-based size standard. On the other hand, 13 commenters said they preferred employee-based size standards, citing the effect on firm size as described in the proposed rule, of equipment requirements being combined with services.

Other commenters preferred a receipts-based size standard because they said it would be a better measure of firm size and eliminate the problem of counting the number of employees. For example, a Federal agency argued that using employees to measure "a small business firm would not be a true representation of the real size" because of the problem of "transitioning employees that make the firms appear larger than they are." Another commenter argued for receipts reasoning that there could be too much of a discrepancy in terms of the sales associated with two firms both at the 150-employee size level.

SBA's position is that receipts is preferable to employees. This is consistent with the established pattern of having all service size standards expressed in terms of receipts (except SIC code 8731, Commercial Physical and Biological Research).

Also there has not been sufficient evidence by commenters that large amounts of equipment are frequently being required as part of computer service contracts to render a receipts-based size standard inappropriate. Nonetheless, SBA is sensitive to commenters' concerns on this issue and is interested in further comments as to the extent of this practice. Finally on this point, if a contract does require over half the value of the contract to be for equipment, the procuring Agency can treat the contract as a manufacturing contract subject to an employee size standard between 500 to 1,000 employees, depending on the type of equipment. Therefore, SBA is establishing an interim final computer services size standard based on receipts, but seeks additional comments on the advantages and disadvantages of an employee versus a receipts-based size standard.

Selection of $14.5 Million Size Standard

While 33 of 36 commenters favored the proposal to increase the size standards, seven urged even higher size standards. One argued for $20 million, another $25 million, a federal agency advocated 300 employees, and four other commenters urged 500 employees, one of whom reasoned that "complex procurements" and "current industry and economic conditions" dictated this level so as to permit firms defined as small to compete with "giant aerospace corporations."

As explained in the proposed rule (56 FR 38368) and later summarized in this interim rule, SBA examined the structure of these industries which indicated the need for higher size standards. The five factors of industry structure examined indicated ranges of size standards that should be established for the computer service industries. The ranges tended to fall between $12 million to $17.5 million, less than the levels suggested by the commenters. The $14.5 million standard was believed to be the most supportable size standard within the ranges indicated by industry structure.

Uniform Size Standard for Nine Computer Industries

Ten commenters urged separate size standards for each computer service industry. Eight of them specifically expressed a preference for the following arrangement: five industries at $14.5 million—Computer Programming Services (SIC code 7371), Computer Processing and Data Preparation and Processing Services (SIC code 7374), Information Retrieval Services (SIC code 7375), Computer Facilities Management Services (SIC code 7376), and Computer Related Services, Not Elsewhere Classified (SIC code 7379); the four other industries would be at 150 employees—Prepackaged Software (SIC code 7372), Computer Integrated Systems Design (SIC code 7373), Computer Rental and Leasing (SIC code 7377) and Computer Maintenance and Repair (SIC code 7378). They felt that the latter four industries are more likely to include equipment as part of a contract and therefore should be expressed in employees.

SBA's position is that the same size standard should be used for all nine computer services industries. This is because contract requirements often include activities from more than one SIC and because computer service firms often operate in more than one SIC. A uniform size standard will minimize classification problems in identifying contracts and firms with SICs.

Selection of Size Standard

In making the proposal, SBA examined the structure of the computer service industries. In particular five specific industry factors were evaluated: Degree of competition, average firm size, start-up costs, firm size distribution, and program impact. These were summarized in a table in the August 13, 1991 notice of proposed rulemaking (56 FR 38368) and are reproduced below. SBA concluded that these factors indicated the need for higher size standards.

TABLE 1.—QUANTITATIVE RESULTS OF FACTORS

Factor	Industry		
	Comp. services	Services	Bus. service
1. Competition Pct. sales by firms above $25M in annual sales	59%	30%	29%
2. Average Firm Size in annual sales	$1.6M	$0.7M	$0.5M
3. Average Start-cost in assets per firm in industry	$1.4M	$0.5M	$0.2M
4. Distribution of Receipts by firms below $3.5M/$14.5M	20%/36%	43%/61%	49%/63%
5. Program Impact % Federal contracts over $0.5M/over $1M	9.4%/4.3%	8.0%/3.4%	6.7%/3.0%

TABLE 2.—SUMMATION OF FACTORS

Factor	Finding	Implication
Degree of competition in the industry as measured by the percent of receipts to firms of $25.0 million or more in receipts.	The computer service industries are dominated by large firms to a much greater extent than either the business service industries or the service industries in the "70" Group of SIC codes.	A higher size standard is warranted for the computer service industries than for most service industries.
Average firm size in an industry as measured in receipts.	Average firm size in the computer service industries is twice that of other business services and three times that of all services in the "70s' " group.	High average firm size suggests that a relatively high size standard is warranted for the computer service industries.
Start-up costs as measured by average capital requirements per firm in an industry.	The computer service industries have significantly higher capital requirements than most service industries.	High start-up of costs indicate, in isolation, that the computer service industries should have relatively high size standards.
Distribution of receipts by size in an industry as measured by the percent of sales by firms below certain size thresholds.	The computer service industries have significantly lower proportions of sales by firms below certain standardized size thresholds than most service industries.	A low proportion of receipts among smaller firms suggests the need for a higher size standard for the computer services industries.
Program impact as measured by the proportion of Federal contracts in industries that exceed $0.5 million and $1.0 million in size.	The computer service industries generally have higher proportions of large contracts than most service industries.	High contract size argues for a relatively high size standard for the computer service industries.

As described in the proposed rule, a $14.5 million size standard was proposed for a number of reasons. Table 1 (above) shows that all of the quantitative indicators point to substantially higher values in computer services as compared to other services.

First, average firm size is much higher in computer services than in comparable industries and indicates a size standards range of between $12 million and $17.5 million. Second, start-up costs are higher and could justify a range of between $7 million and $17.5 million. Third, distribution of industry sales reveal that 29% of industry sales in computer services are accounted for by firms within the current size standards. When contrasted with the 38% of sales covered by firms in business services or for all of small business economy-wide, this factor as well points to a higher size standard. A size standard of $17 million would be necessary to achieve 38% coverage for computer services.

Based on these ranges indicated by the factors, a substantial increase in the present $7 million size standard and a more modest increase in the present $12.5 million size standard were believed necessary. A $14.5 million size standard was proposed for all of the nine computer services industries. The proposed alternative size standard of 150 employees, intended to be equivalent to $14.5 million in sales, was derived from the Bureau of the Census data showing sales per employee for the computer services. (After evaluating further comments, should SBA decide to adopt an employee-based size standard, then the $14.5 million size standard would be discontinued.)

Compliance With Regulatory Flexibility Act, Executive Orders 12291, 12612, 12778, and the Paperwork Reduction Act.

General

SBA considers that this interim final rule will have a significant economic impact on a substantial number of small entitites for purposes of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq*). In addition, this rule constitutes a major rule for the purpose of Executive Order 12291. Immediately below SBA has set forth a regulatory impact analysis.

(1) Description of Entities to Which the Rule Applies

SBA estimates that 336 additional firms out of a total of 33,000 firms active in the computer services industries will be considered small as a result of this rule. These firms will become eligible to seek assistance offered by SBA's programs, provided they meet other program requirements for assistance. The new size standards do not impose a regulatory burden because they do not regulate or control business behavior.

(2) Description of Potential Benefits of the Rule

Firms which would be newly considered small business under the interim final rule would be eligible for a variety of business development, financial assistance and procurement assistance programs offered by SBA. The benefits of the business development program help a small business to improve its competitiveness

in the market. While it is difficult to precisely quantify the benefits of this rule, based upon previous statistics, estimates of the beneficial effect on SBA's financial and procurement programs can be made.

During the 1989 fiscal year, there were a total of 123 guaranteed business loans totalling $29.7 million made to firms in the computer services industries under the 7(a) Loan Program. Since only slightly more than 1 percent of firms in the industry will become newly eligible under the proposed $14.5 million size standard, proportionately the number of business loans should increase by about one percent, or only by two or perhaps three loans. Based on the average loan amount of $241,000 to firms in this industry, approximately $500,000 to $750,000 more in loans may be guaranteed to computer service firms by SBA.

A greater impact is anticipated in the Government procurement programs set aside for small business. In fiscal year 1989, the Federal government purchased $4 billion in computer services of which $1.2 billion (31 percent) was from small business. Data derived from the 1987 Census of Service Industries indicate that firms ranging from $7 million to $14.5 million in gross receipts (the area of the size standard increase) account for 8 percent of computer service sales. If the newly designated small firms are as successful in the Federal procurement market as they are in the industry in general, they would be awarded 8 percent of $4 billion in Federal computer contracts, equal to about $320 million in additional total Federal outlays to firms defined as small by the SBA. This figure, while significant and clearly meriting the classification of the rule as a major rule, requires some additional clarification for proper perspective.

Probably the greatest impact of these size standards increases is entirely passive; it involves the reclassification of unrestricted dollar awards from formerly nonsmall firms to newly defined small firms. SBA estimates that 8 percent of sales revenues in the computer services industries are generated by firms that would be newly considered small under the size standard of $14.5 million. Since 75 percent of Federal contracting for computer services is presently unrestricted, most of the $320 million projected impact would involve a reclassification of awarded unrestricted contract dollars from nonsmall to small firms. SBA estimates that approximately two-thirds of the $320 million projected impact (or more than $200 million) would involve this shift with perhaps an additional $100 million increase in total set-aside and 8(a) contracting.

(3) Description of Potential Costs of the Rule

The potential costs of these size standard changes are expected to be minimal. With respect to SBA's loan program, its lending authority is fixed by Congress, and the total dollar amounts loaned or guaranteed cannot exceed certain statutory limits. Once these lending limits are enacted, no additional costs to program administration are, therefore, incurred by the newly eligible small firms. The costs on Federal procurement would also be expected to be minimal for two reasons: First, competition between two or more small firms must exist before a contract may be set aside for small business. Second, set-asides are expected to be awarded at reasonable prices. If competition and reaonable pricing do not exist on the proposed set-asides, the procuring agencies are expected to issue unrestricted procurements. Thus losses in the form of increased costs to the Government, if any, are not expected to be significant. In addition, the new size standards are not expected to have significant adverse effects on competition, employment, investment, price, productivity, innovation, or on the ability of U.S.-based businesses to compete with foreign-based businesses in domestic or export markets.

The competitive effects of size standard revisions differ from those normally associated with regulations affecting key economic factors such as the price of goods and services, costs profits, growth, innovation, mergers, and foreign trade. Size standards are not anticipated to have any appreciable effect on any of these factors.

(4) Description of the Potential Net Benefit to the Rules

From the above discussion, SBA believes that, because the potential costs of this final rule are minimal, the potential net benefits would equally approximate the potential benefits. The impact of the size standard, would, if adopted, be concentrated in Federal procurement.

(5) Description of Reasons Why This Action Is Being Taken and Objectives of Rule

SBA has provided above in the supplementary information a description of the reasons why this action is being taken and a statement of the reasons for and objectives of this final rule.

(6) Legal Basis for the Final Rule

The legal basis for this rule is sections 3(a) and 5(b) of the Small Business Act, 15 U.S.C. 632(a), 634(b)(6), 637(a) and 644(c).

(7) Federal Rules

There are no Federal rules which duplicate, overlap or conflict with this final rule. SBA has statutorily been given exclusive jurisdiction in establishing size standards.

(8) Significant Alternatives to Final Rule

The changes set forth in this rule from the current size standard attempt to establish the most appropriate definition of small businesses eligible for SBA's assistance programs. There are no significant alternatives to defining a small business other than developing an alternative size standard. These were discussed in the supplementary information above and in the proposed rule.

SBA certifies that this rule will not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

SBA certifies that this rule will not add any new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C., chapter 35.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Individuals with disabilities, Loan programs—business, Reporting and recordkeeping requirements, Small business.

Accordingly, Part 121 of 13 CFR is amended as follows:

PART 121—[AMENDED]

(1) The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b)(6), 637(a) and 644(c)

(2) In § 121.601, in the table, Major Group 73, SIC codes 7371 through 7379, are revised to read as follows:

§ 121.601 Standard Industrial Classification codes and size standards.

* * * * *

SIZE STANDARDS BY SIC INDUSTRY

SIC (* = new SIC code in 1987, not used in 1972)	Description (N.E.C. = not elsewhere classified)	Size standards in number of employee or millions of dollars
	* * * * * * *	
	Major Group 73—Business Services	
	* * * * * * *	
7371*	Computer Programming Services	$14.5
7372	Prepackaged Software	14.5
7373*	Computer Integrated Systems Design	14.5
7374	Computer Processing and Data Preparation and Processing Services	14.5
7375*	Information Retrieval Services	14.5
7376	Computer Facilities Management Services	14.5
7377*	Computer Rental and Leasing	14.5
7378*	Computer Maintenance and Repair	14.5
7379	Computer Related Services, N.E.C.	14.5
	* * * * * * *	

Dated: April 30, 1992.

Patricia Saiki,

Administrator, U.S. Small Business Administration.

[FR Doc. 92-14396 Filed 6-22-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 92-AWP-5]

Change to Control Zone Hours; MCAS Kaneohe, HI

AGENCY: Federal Aviation Administration [FAA], DOT.

ACTION: Final rule.

SUMMARY: This action changes the time of operation of the Marine Corps Air Station (MCAS), Kaneohe, HI Control Zone. The present airspace designation of the Control Zone indicates a 24-hour per day operation. The Marine Corps has neither the assets nor the manpower to staff the tower on a 24-hour per day basis. The Control Zone hours are therefore amended to match the hours of operation of the MCAS Kaneohe Airfield. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Pacific Chart Supplement.

EFFECTIVE DATES: 0901 UTC, October 15, 1992.

FOR FURTHER INFORMATION CONTACT: Gene Enstad, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, AWP-530, Federal Aviation Administration, P.O. Box 92007 WPC, Los Angeles California 90009; telephone (310) 297-0010.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to § 71.171 of part 71 of the Federal Aviation Regulations (14 CFR part 71) changes the effective hours of the Marine Corps Air Station (MCAS), Kaneohe, HI Control Zone. The MCAS Kaneohe Control Zone is currently described as a full-time control zone. Since the Marine Corps does not have the assets to maintain a tower 24-hours per day, they are adjusting the control zone hours to match the times of operation of the MCAS Kaneohe Airfield.

I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor amendment in which the public would not be particularly interested. The airspace designation for the Control Zone, as amended, will be published in section 71.171 of Handbook 7400.7, effective November 1, 1991, which is incorporated by reference in 14 CFR 71.1.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Control Zones, Incorporation by Reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS, JET ROUTES, AND AREA HIGH ROUTES

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E. O. 10854; 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [AMENDED]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.171 Designation

* * * * *

CZ Kaneohe, HI [Revised]

Within a 5-mile radius of MCAS Kaneohe (lat. 21°27'30"N., long. 157°46'30"W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Pacific Chart Supplement.

* * * * *

Issued in Los Angeles, California, on June 3, 1992.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 92-14695 Filed 6-22-92; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Infant Cushions and Pillows Filled With Foam, Plastic Beads or Other Granular Material

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission is issuing a rule to ban infant cushions or pillows filled with foam plastic beads or other granular material. The rule is issued under the authority of the Federal Hazardous Substances Act (FHSA). Existing Commission regulations do not specifically address the risks of injury and death posed by this product. Alternatives such as labeling or performance or design criteria would not adequately reduce the risks of injury or death associated with the infant cushions. No applicable voluntary standard exists or is under development. Benefits of the regulation bear a reasonable relationship to the costs, and the regulation imposes the least burdensome requirement that would prevent or adequately reduce the risk of injury.

DATES: The rule would become effective on July 23, 1992, and will apply to infant cushions in the chain of distribution on or after that date.

FOR FURTHER INFORMATION CONTACT: Terri Rogers, Office of Enforcement and Compliance, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0608.

SUPPLEMENTARY INFORMATION:

A. Background

As of January 24, 1992, the Commission has received reports of 37 incidents associated with the use of infant cushions or pillows filled with foam plastic beads or other granular material (hereinafter referred to as "infant cushions"). Thirty-five of these incidents were fatal, one resulted in brain damage, one did not result in injury. (See Reference No. 14.)

Certain fundamental elements are common to these infant cushions (also known, among other names, as "baby bean bag pillows" or "bean bag cushions"). Generally, the cushions are constructed of a flexible fabric cover that encloses a loose granular material such as polystyrene foam beads or pellets. The cushions are capable of being flattened so a child can lie prone on the cushions, and are capable of conforming to the body or face of an infant. They are intended or promoted for use by children under one year of age. They may vary in size, fabric, and other aspects of construction. (See Reference No. 1.)

Upon learning of the increasing number of incidents apparently connected with this product, the Commission's staff worked with product manufacturers to have them recall the infant cushions on the market. In March 1990, the Commission issued a warning to the public that infant cushions posed a potential suffocation hazard to infants. By the end of April 1990, eleven manufacturers had agreed to recall their products and to cease future production of the cushions. The Commission found that one previously identified manufacturer had gone out of business. Finally, in July 1990, the Commission identified an additional manufacturer, not previously known, that also agreed to recall its product and cease production. (See Reference No. 6.)

The recall and concurrent publicity resulted in the removal of these cushions from the market and informed many consumers of the risks associated with this product. However, the Commission is concerned that future production of the same or similar products will occur. The staff has received inquiries concerning future marketing of the product. Moreover, the infant cushions have a simple design and are easy to manufacture.

Thus, on October 19, 1990, the Commission issued an advance notice of proposed rulemaking ("ANPR") announcing the Commission's intent to develop a rule addressing the risk of injury and death associated with infant cushions. 55 FR 42202 (1990). The ANPR stated that one possible result of the proceeding could be the promulgation of a rule banning infant cushions. On July 16, 1991, the Commission issued a notice of proposed rulemaking proposing to ban infant cushions. 56 FR 32352.

B. Statutory Authority

This proceeding is conducted pursuant to the Federal Hazardous Substances Act ("FHSA"), 15 U.S.C. 1261 *et seq.* Section 2(f)(1)(D) of the FHSA defines "hazardous substance" to include any toy or other article intended for use by children which the Commission determines, by regulation, presents an electrical, mechanical, or thermal hazard. 15 U.S.C. 1261(f)(1)(D). An article may present a mechanical hazard if its design or manufacture presents an unreasonable risk of personal injury or illness during normal use or when subjected to reasonably foreseeable damage or abuse. 15 U.S.C. 1261(s).

Under section 2(q)(1)(A) of the FHSA, a toy, or other article intended for use by children, which is or contains a hazardous substance susceptible to access by a child is a "banned hazardous substance." 15 U.S.C. 1261(q)(1)(A).

A proceeding to promulgate a regulation determining that a toy or other children's article presents an electrical, mechanical, or thermal hazard is governed by the requirements set forth in section 3(f) through 3(i) of the FHSA. 15 U.S.C. 1262(e)(l)-(i). As provided in section 3(f), 15 U.S.C. 1262(f), the Commission has issued an ANPR. 55 FR 42202. After considering the comments submitted in response to the ANPR, the Commission issued a proposed rule along with a preliminary regulatory analysis in accordance with section 3(h) of the FHSA, 15 U.S.C. 1262(h). 56 FR 32352. The Commission has reviewed the comments to the proposed rule and has determined to issue a final rule. It is publishing the text of the rule along with a final regulatory analysis. *Id.* 1262(i)(l). The Commission has also made findings required by section 3(i)(2) of the FHSA concerning voluntary standards, the relationship of costs and benefits, and the burden imposed by the regulation. *Id.* 1262(i)(2).

C. The Product

The Commission believes that the essential features of the infant cushions are as follows: the cushions: (1) Have a flexible fabric [1] covering; (2) are loosely filled with a granular material such as, but not limited to, polystyrene beads or pellets; (3) are easily flattened so that a child can lie prone on the cushion; (4) are capable of conforming to the body or face of an infant; and (5) are intended or promoted for use by children under one year of age. The final rule uses these five elements as the basis for a definition of the product. (See Reference No. 1.) The cushions vary in size, but generally measure approximately 23 to 24 inches long, 11 to 18 inches wide, and 4 to 5 inches thick. The thickness changes with use of the cushion because

[1] The Commission is defining "fabric" with reference to the definition of that term in section 2(f) of the Flammable Fabrics Act: "any material * * * woven, knitted, felted, or otherwise produced from or in combination with any natural or synthetic fiber, film, or substitute therefor * * *" 15 U.S.C. 1191(f).

the cushion is easily depressed as the filling materials shift. (See Reference Nos. 1 and 3.) Some cushions have had additional features such as a cardboard stabilizer board, and waist and crotch restraining straps, but these optional features are not essential to a definition of the product.

The promotional literature that accompanied many infant cushions contains pictures and descriptions that suggest uses and product characteristics. The Commission concluded that the cushion is likely to be used most for infants less than six months of age. From birth to six months, children spend most of their time lying down or sitting supported since they cannot yet sit unsupported, crawl, climb, stand, or walk. For children in this age group, the cushion is likely to be used as a mattress on which to sleep. (See Reference No. 5.) Further details concerning the product can be found in the notice of proposed rulemaking.

Approximately one million of these cushions were manufactured and sold between 1985 and 1990. Based on an average use of six months per child in an average family of two children, total exposure to these products was likely to be about one million product years of intermittent use. The cushions ranged in price (retail) from $8 to $40, averaging $16.25. (See Reference Nos. 3 and 11.)

D. Risks of Injury and Death

This proceeding is concerned with unreasonable risks of injury and death which may occur when a child is placed on an infant cushion. The Commission has identified 37 incidents involving these cushions since September of 1987. The Commission also has reports of three additional deaths that may have involved infant cushions, but these incidents are unconfirmed. Of the 37 incidents, 35 resulted in death, one in brain damage, and one (of a child under the cushion), reported as a near suffocation, did not result in injury. (See Reference Nos. 10 and 14.) The actual number of incidents involving infant cushions may be higher than 37 as infant cushions may also have been involved in unreported incidents in which the cause was identified as sudden infant death syndrome ("SIDS") with no indication that an infant cushion was involved.

Of the 37 reported incidents, all but two of the victims were less than four months of age.[2] In almost all of the cases where the infant's position could be determined, the infant was in a prone, stomach down, position. (See Reference No. 5.) Often the cushion was used on a bed, crib, or bassinet. Further details concerning the incidents may be found in the notice of proposed rulemaking.

The Commission identified the following factors that may be involved in deaths and injuries associated with infant cushions. (1) Pediatricians and other medical experts have traditionally cautioned against using pillows in cribs or beds where infants sleep, due to possible respiratory obstruction. Pillows can increase the respiratory resistance 30 to 40 fold. (2) Wet fabric will further increase breathing resistance. A pillow or cushion may become wet because an infant's reflex action to suffocation is to mouth the obstruction and infants have a tendency to drool. (3) As many as 30–50% of infants three months of age or less are reported to be unable to breathe through their mouths if their nasal passages are obstructed. (4) Hyperthermia (overheating), due to excessive clothing or bedding, can increase an infant's need for oxygen and stimulate rapid breathing. Decreased ability for evaporative cooling occurs when a prone infant's face is buried in compressible bedding. (5) Infants lying prone with their faces in soft, compressible bedding may be susceptible to rebreathing, which occurs when exhaled carbon dioxide is trapped around the infant's face displacing oxygen and causing the baby to breathe decreased levels of oxygen. (See Reference Nos. 7 and 8.)

In most of the 35 fatal cases reported, the deaths associated with infant cushions were reported as being due to SIDS, which is currently considered the most common cause of death for infants 28 days to 12 months in age. SIDS is a diagnosis by exclusion, generally defined as any sudden death of an infant or young child that is unexpected by history and in which a thorough autopsy fails to identify an adequate cause of death. An autopsy would not differentiate between SIDS and suffocation.

A diagnosis of SIDS and involvement of an infant cushion are not mutually exclusive. Researchers have found that in many cases SIDS victims were recovering from respiratory infections or had other breathing problems. If the respiratory function of some SIDS-prone infants is already compromised, any additional respiratory effort induced by lying prone on an infant cushion could further contribute to their inability to breathe normally. Some researchers have noted an association between SIDS and the prone sleeping position. (See Reference No. 4.)

Two pediatricians recently conducted medical studies that examined the possible mechanism for infant suffocation on infant cushions. The authors found that: (1) An infant's head movement to obtain fresh air could be restricted by the pocket formed in the soft and malleable cushions; (2) this type of soft and malleable bedding can create a very hazardous environment, due to low levels of oxygen and high levels of carbon dioxide, for an infant in a face-down position; and (3) the low oxygen levels could become lethal if maintained for any period of time due to the infant's rebreathing of trapped air. (See Reference No. 12.)

Based on its analysis of all of the above information, the Commission concludes that it is likely that infant cushions were a significant factor in these infant deaths. (See Reference No. 8.)

E. Comments on the Proposed Rule

The Commission received two comments in response to the proposed rule. The President of the National Association of Pediatric Nurse Associates and Practitioners wrote in support of the Commission's action to ban infant cushions.

The other commenter, an attorney representing one of the manufacturers of infant cushions in litigation, opposed the ban. He criticized the studies by two pediatricians, mentioned above. The commenter did not criticize particular aspects of the Commission's analysis and rulemaking, but rather focused on the pediatricians' studies.

This comment incorrectly assumes that the Commission's banning proceeding is based on the medical studies he criticizes. Long before the results of the pediatricians' studies were published on June 27, 1991, the Commission had worked with manufacturers to obtain the recall of infant cushions and had initiated this rulemaking proceeding to ban the future production of infant cushions. These studies further confirm the Commission's analysis of the factors likely involved in incidents associated with infant cushions. They were not, however, the basis for the Commission's action. Furthermore, the staff requested the studies' authors to respond to the commenter's criticisms, and the

[2] These two incidents involved older infants and were somewhat unusual. The oldest victim, who was nine months old, had broken collar bones which may have impaired his movement and contributed to his death. The Commission received one report of an incident, not resulting in injury, in which a four month old was found underneath an infant cushion. The infant had been in the crib with the cushion, but not on top of the cushion.

Commission concurs with the authors' responses. (See Reference Nos. 17 & 18.)

The pediatricians conducted three studies. The first study tested the softness and malleability of infant cushions using a mannequin of an infant head. Tests were also conducted using crib mattresses. The study found that placing the mannequin head on the infant cushions and moving it 15 degrees to the side created pockets of 3.3 inches to 4.4 inches in the cushions. No pockets were found in the crib mattresses. The authors found that head turning deepened the pockets and the turning movements did not free the nose and mouth.

The second study investigated rebreathing. The authors breathed into the cushions and recorded the rise in carbon dioxide and fall in oxygen levels. After two minutes, they found hypercarbic (high carbon dioxide) and hypoxic (low oxygen) levels. The levels of carbon dioxide were such that they would become lethal if maintained for any period of time.

The third study used four sedated rabbits breathing through endotracheal tubes which were positioned so that the tube was against the cushions. The authors found severe hypercarbia (high carbon dioxide blood levels) and hypoxemia (low oxygen blood levels) within 30 minutes. The rabbits died within 71 minutes to 252 minutes. (See Reference No. 12.)

The commenter criticized various aspects of these studies. His primary criticisms were that: (1) The authors did not account for the ability of an infant to move its head more than 15 degrees or for the effect of the weight of the entire body rather than just the head; (2) the authors used a foam cushion in one test and the blood/gas study results were almost identical to those with infant cushions; and (3) the authors threw out results of one experiment in which the cushion slipped off the tracheotomy tube that was attached to one of the rabbits. These blood/gas findings were inconsistent with the others. The commenter claims that the pillow slipping simulates a baby's head movement. (See Reference No. 17.)

The authors have responded to these criticisms in detail. (See Reference No. 17.) Briefly summarized, they state: (1) They did not ignore head movement, but the infants that died on the cushions were in fact found face directly down and, in most cases, with the nose and mouth encumbered. The weight of the baby would only effect the depth of the pocket, and compression of the beads could actually impede the dispersion of carbon dioxide. Moreover, several babies were found with only their heads on the cushions. (2) Other soft items could be dangerous too, but the focus of the study was infant cushions which the authors state may be particularly dangerous "because they look so benign." (3) Slippage of the cushion did not simulate head turning, but the rabbit was allowed to breathe fresh air for over 30 minutes. (See Reference Nos. 17 & 18.) The commenters specific criticisms and the authors' responses may be found in documents in the Secretary's Office.

F. The Final Rule

The Commission is issuing a final rule to ban infant cushions. Although a voluntary recall has removed these products from the market for the present time, the Commission is concerned that, in the absence of a rule banning them, they could reappear on the market.

The final rule will ban cushions that (1) have a flexible fabric covering; (2) are loosely filled with a granular material such as, polystyrene beads or pellets; (3) are easily flattened so that a child can lie prone on the cushion; (4) are capable of conforming to the body or face of an infant; and (5) are intended or promoted for use by children under one year of age.

The potential benefits and costs of the ban are discussed below in the final regulatory analysis. The analysis concludes that the potential costs to businesses are expected to be offset by production of other products and the potential costs to consumers are likely to be offset by the availability of substitutes. The benefits of a ban are between two and three lives saved annually, assuming a production level of 250,000. (See Reference Nos. 11 and 15.)

G. Alternatives

The Commission considered whether alternatives to the ban might reduce the risks of injury and death related to infant cushions. One alternative is labeling the cushions. The Commission does not believe, however, that any form of labeling would have a significant effect in preventing the hazard associated with infant cushions.

Some cushions on the market had safety labels and promotional material warning not to leave a child unattended.

However, several problems were associated with these safety messages. Further, the Commission does not believe that even labeling that more clearly states the risk of these infant cushions would effectively avoid or reduce the risk to infants. First, even use in accordance with a label may not be safe. Fatalities have occurred when the caretaker or a monitor was in the room with the child. (See Reference No. 5.) Secondly, the Commission is concerned that a label on or with the infant cushions may not be read and/or followed due to consumers' familiarity with the same or a similar product, and because of the simplicity of the product. Labeling is discussed in greater detail in the notice of proposed rulemaking.

The Commission is not aware of any voluntary standards in effect or under development that apply to this product. The Commission is aware of two British standards (developed by the British Standards Institute) for similar, but not identical, products. The first standard, BS 4578:1970 (adopted by the British Standards Institute in 1970 and readopted in 1985 without changes) is a voluntary standard for small infant pillows. The standard specifies requirements for hardness (depth of depression) and permeability to air. It also requires that any pillow which is to be used as "a pram-support pillow, or in a cot" must have a label stating that it is not recommended that very young infants lie on the pillow. Since the standard became effective, infant pillows have disappeared from the market in Great Britain.

The second standard, BS 6595 (adopted by the British Standards Institute in 1984 and by the British Parliament), applies to "baby nests," which are papoose-like baby carriers. This is a mandatory standard that contains permeability requirements similar to, but more stringent than, those in the voluntary standard for infant pillows. (See Reference No. 9.)

The Commission staff believes that a standard similar to these British standards would not adequately reduce the risk of injury associated with infant cushions. Because other factors may be involved in the incidents with infant cushions, it is unlikely that these standards, as currently written, would adequately address the problem. Although the British standards identify product properties that are relevant to this issue (permeability of the product and depth of depression produced by an infant's head), problems exist in attempting to adapt them to infant cushions. For example, the allowable depth of depression measured by the standards is variable and is related to the thickness of the product rather than the depth that would significantly affect an infant's breathing. Also, the specified test equipment is not sensitive enough to measure consistently in the pressure range necessary to evaluate the permeability of the cushions. (See Reference No. 13.)

One of the key characteristics of infant cushions is their ability to

conform to an infant's face or body. At the current time, the Commission cannot define a degree of conformity that would be safe. Thus, the Commission concludes that a ban of infant cushions, as defined, is the least burdensome alternative that would eliminate or adequately reduce the risk of injury.

H. Final Regulatory Analysis

Introduction

The Commission has determined to ban infant cushions. Section 3(i)(1) of the FHSA requires the Commission to prepare a final regulatory analysis containing:

(A) A description of the potential benefits and potential costs of the regulation, including costs and benefits that cannot be quantified in monetary terms, and the identification of those likely to receive the benefits and bear the costs.

(B) A description of any alternatives to the final regulation which were considered by the Commission, together with a summary description of their potential benefits and costs and a brief explanation of the reasons why these alternatives were not chosen.

(C) A summary of any significant issues raised by the comments submitted during the public comment period in response to the preliminary regulatory analysis, and a summary of the assessment by the Commission of such issues.

15 U.S.C. 1261(i)(1). The following discussion addresses these requirements. (See Reference No. 15.)

Potential Costs and Benefits of the Final Rule

The preliminary regulatory analysis discusses the potential costs and benefits of a ban on infant cushions. 55 FR 42202. In this final regulatory analysis the Commission's findings are unchanged. The Commission concludes that overall benefits would result from a ban on infant cushions as a result of the avoidance of future infant deaths. Total annual benefits are estimated at two to three deaths averted, assuming an annual production of 250,000 infant cushions. The Commission does not ascribe a particular monetary value to life. However, if for purposes of analysis, a statistical value of $2 million is assigned for each death, the estimated annual benefit associated with the avoidance of future fatalities would be on the order of $5 million.

The potential loss to consumer utility would be offset by the availability of close substitutes in the same price range. Because infant cushions are not currently produced, costs to businesses would be limited to losses due to idle production resources. These resources may be easily transferred to other product lines, thus offsetting potential losses.

Alternatives Considered

Two alternatives to a ban were considered and rejected. The first was a labeling program, which the Commission determined would lack sufficient effectiveness (i.e., would produce minimal benefits). The second option was the development of a performance standard. A review of existing national and international standards identified no current standards or ongoing research efforts that addressed the rebreathing hazard of the infant cushions. Additionally, no outside comments concerning the development of a performance standard were received. Therefore, the Commission concluded that a ban would be the most effective and least costly option available.

Comments to Preliminary Regulatory Analysis

No comments addressing the preliminary regulatory analysis were received.

I. Regulatory Flexibility Certification

In the notice of proposed rulemaking the Commission certified that the proposed rule would not result in a significant adverse impact on a substantial number of small firms or entities. This is because no infant cushions are currently on the market. No comments were received related to the Commission's regulatory flexibility certification.

J. Environmental Considerations

Commission actions ordinarily have little or no potential to affect the human environment and do not require an environmental assessment or environmental impact statement. *See* 16 CFR 1021.5. As stated in the notice of proposed rulemaking, the Commission does not foresee that this proposed rule would involve any unusual circumstances that might alter this assessment.

K. Effective Date

The rule will become effective July 23, 1992 and will apply to infant cushions in the chain of distribution on or after that date. The Commission believes that this effective date is appropriate given that all 12 manufacturers of existing infant cushions have already voluntarily withdrawn the cushions from the chain of distribution.

Conclusion

For the reasons given above, the Commission concludes that the infant cushions described in the rule issued below are hazardous substances, under section 2(f)(1)(D) of the FHSA, 15 U.S.C. 1261(f)(1)(D), in that they are intended for children and present a mechanical hazard. Under the FHSA, an article presents a mechanical hazard if during normal use or reasonably foreseeable damage or abuse the article's design or manufacture presents an unreasonable risk of injury or illness due to any of eight specific qualities of the article, or "because of any other aspect of the article's design or manufacture." 15 U.S.C. 1261(s). The Commission finds that infant cushions, because of their softness and ability to conform to an infant's face, present an unreasonable risk of injury.

In accordance with section 3(i)(2) of the FHSA, the Commission finds that: (1) no voluntary standard has been adopted or implemented, (2) the benefits of the regulation stated below bear a reasonable relationship to its costs, and (3) the rule is the least burdensome alternative that will adequately reduce the risk. *Id.* 1262(i)(2).

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Reporting and recordkeeping requirements, and Toys.

Therefore, under the authority of section 2(f), (q)(1)(A), and (s) and section 3(e)–(i) of the Federal Hazardous Substances Act, 15 U.S.C. 1261(f), (q)(1)(A), and (s), 1262(e)–(i), the Commission amends chapter II of title 16 of the Code of Federal Regulations as follows:

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

1. The authority for part 1500 continues to read as follows:

Authority: 15 U.S.C. 1261–1276

2. Section 1500.18 is amended to add a new paragraph (a)(16) to read as follows:

§ 1500.18 Banned toys and other banned articles intended for use by children.

(a) * * *

(16)(i) Any article known as an "infant cushion" or "infant pillow," and any other similar article, which has all of the following characteristics:

(A) Has a flexible fabric covering. The term *fabric* includes those materials covered by the definition of "fabric" in section 2(f) of the Flammable Fabrics Act, 15 U.S.C. 1191(f).

(B) Is loosely filled with a granular material, including but not limited to, polystyrene beads or pellets.

(C) Is easily flattened.

(D) Is capable of conforming to the body or face of an infant.

(E) Is intended or promoted for use by children under one year of age.

(ii) *Findings*—(A) *General.* In order to issue a rule under section 2(q)(1) of the Federal Hazardous Substance Act (FHSA), 15 U.S.C. 1261(q)(1), classifying a substance or article as a banned hazardous substance, the FHSA requires the Commission to make certain findings and to include these findings in the regulation. These findings are discussed in paragraphs (a)(16)(ii) (B) through (D) of this section.

(B) *Voluntary standard.* No findings concerning compliance with or adequacy of a voluntary standard are necessary since no voluntary standard addressing infant cushions has been adopted or implemented.

(C) *Relationship of benefits to costs.* The Commission estimates that the removal of infant cushions from the market will result in total annual benefits of approximately five million dollars. The potential costs to businesses are expected to be offset by production of other products, and the potential costs to consumers are likely to be offset by the availability of substitutes for a comparable price.

(D) *Least burdensome requirement.* The Commission considered labeling and a design or performance standard as alternatives to the ban. The Commission does not believe that any form of labeling would have a significant effect in preventing the hazard associated with infant cushions. The Commission also concluded that no feasible standard exists that would address the hazard. Thus, the Commission determined that a ban of infant cushions is the least burdensome alternative that would prevent or adequately reduce the risk of injury.

* * * * *

Dated: June 15, 1992.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Appendix—Reference Documents

(This appendix will not appear in the Code of Federal Regulations.)

The following documents contain information relevant to this rulemaking proceeding and are available for inspection at the Office of the Secretary, Consumer Product Safety Commission, Room 420, 5401 Westbard Avenue, Bethesda, Maryland:

1. Memorandum from Margaret Neily, ESME, to Frank Brauer, EXPB, dated June 19, 1990, entitled Suggested Definition of Infant Bean Bag Cushion/Pillows.

2. Memorandum from James Eisele, EPHA, to Frank E. Brauer, EXPB, dated August 17, 1990, entitled "Bean Bag" and Other Pillow Incidents Reported.

3. Memorandum from William W. Zamula, ECSS and Anthony C. Homan, ECPA, to Frank E. Brauer, EXPB, dated July 19, 1990, entitled Infant Pillows.

4. Memorandum from Sharee Pepper, HSPS, to Frank Brauer, Project Manager, PSA Team, dated June 29, 1990, entitled PSA Request No. 5355.

5. Memorandum from Shelley Waters Deppa, EPHF, to Frank E. Brauer, EX–PM, dated July 9, 1990, entitled Infant Bean Bag Cushion.

6. CPSC Press Releases No. 90–42, dated March 6, 1990; Nos. 90–73, 90–74, 90–77 through 90–81, dated April 19, 1990; Nos. 90–83 through 90–89, 90–90, dated April 30, 1990; and No. 90–127, dated July 17, 1990.

7. Memorandum from Frank E. Brauer and Cathy Downs, EXPB, to the Commission, dated July 20, 1990, entitled Infant Cushions/Pillows: Recommendation.

8. Memorandum from Sharee Pepper, HSPS, to Frank Brauer and Cathy Downs, EXPB, dated July 31, 1990, entitled Infant suffocation and bean bag pillows.

9. Memorandum from Margaret Neily, ESME, to Frank E. Brauer, EXPB, dated August 15, 1990, entitled Summary of British Standards Related to Infant Bean Bag Hazards.

10. Memorandum from Robert E. Frye, Director, EPHA, to Marilyn Wind, HSPS, dated January 24, 1991, entitled Infant Cushion Related Incidents Reported to CPSC.

11. Memorandum from Mary F. Donaldson, ECSS, to Marilyn Wind, Director, HSPS, dated January 31, 1991, entitled Economic Analysis of Proposed Ban on Infant Cushions.

12. Memorandum from Sharee Pepper, Ph.D., Physiologist, HSPS, to Marilyn L. Wind, Ph.D., Project Manager, HSPS, dated April 24, 1991, entitled Literature Review Update for Infant Bean Bag Cushions.

13. Memorandum from Margaret L. Neily, ESME, to Marilyn L. Wind, Director, HSPS, dated March 26, 1991, entitled Technical Feasibility of Developing a Standard for Infant Cushions and Adequacy of Existing Standards—Update.

14. Memorandum from Debbie Tinsworth, EPHA, to Marilyn G. Wind, Ph.D., Project Manager, HSPS, dated January 24, 1992, entitled Deaths Associated with Infant Cushions.

15. Memorandum from Mary F. Donaldson, ECSS, to Marilyn Wind, Project Manager, HSPS, dated January 9, 1992, entitled Final Regulatory Analysis and Final Regulatory Flexibility Analysis of Infant Cushions Final Rule.

16. Briefing Memorandum from Marilyn L. Wind, Ph.D., Directorate for Health Sciences, to the Commission, dated May 14, 1992, entitled Final Rule on Infant Cushions and Pillows Filled with Foam Plastic Beads or Other Granular Material.

17. Letter from James S. Kemp, M.D. to Marilyn Wind, dated November 25, 1991.

18. Memorandum from Marilyn Wind to the Commission, dated January 31, 1992, entitled Response to Comments on Infant Cushion NPR.

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16 CFR Part 1700

Requirements for Child-Resistant Packaging; Ibuprofen Preparations

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: Under the Poison Prevention Packaging Act of 1970, the Commission issues a rule requiring child-resistant packaging for oral ibuprofen preparations containing one gram (1,000 mg) or more of ibuprofen in a single package. These requirements are issued because the Commission determined that child-resistant packaging is required to protect children under five years of age from serious personal injury and serious illness resulting from ingesting such substances.

DATES: The rule is effective December 21, 1992, and applies to ibuprofen preparations packaged on or after that date.

FOR FURTHER INFORMATION CONTACT: Michael T. Bogumill, Division of Regulatory Management, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0400.

SUPPLEMENTARY INFORMATION:

A. Background

The Poison Prevention Packaging Act of 1970 (PPPA), 15 U.S.C. 1471–1476, authorizes the Commission to establish standards for the "special packaging" of any household substance if (1) the degree or nature of the hazard to children in the availability of such substance, by reason of its packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substance and (2) the special packaging is technically feasible, practicable, and appropriate for such substance. Special packaging, also referred to as "child-resistant packaging," is defined as packaging that is (1) designed or constructed to be significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use properly. (It does not mean, however, packaging which all such children

cannot open, or obtain a toxic or harmful amount from, within a reasonable time.) Under the PPPA, effectiveness standards have been established for special packaging (16 CFR 1700.15), as has a procedure for evaluating the effectiveness (§ 1700.20). Regulations have been issued requiring special packaging for a number of household products (§ 1700.14).

The Commission administers a regulation issued under the PPPA that requires, with specified exceptions, that all oral human prescription drugs be in child-resistant packaging. Whether a drug is required to be issued by prescription is determined by the Food and Drug Administration. When the FDA releases a drug from prescription requirements, so that the drug can be bought over-the-counter (OTC), the drug is no longer subject to the child-resistant packaging requirement that applies to prescription drugs.

Ibuprofen is a nonsteroidal anti-inflammatory and analgesic drug used to treat such wide-ranging ailments as arthritis, menstrual pain, toothache, backache, the common cold, and fever. Ibuprofen was first introduced as a prescription drug in the 1970's. In 1984, the FDA approved it for OTC use at lower dosage strengths. Its primary uses as an oral OTC drug are for temporary relief of minor aches and pains, relief of menstrual pain, and reduction of fever.

In 1984, the Commission's staff reviewed toxicity data and the limited human experience data that were available to assess whether child-resistant packaging was needed for OTC ibuprofen products. The information available at that time indicated that ibuprofen was not involved in serious injury to young children. [8] [1] In addition, the two major manufacturers of OTC ibuprofen formulations were voluntarily packaging their products in child-resistant containers. *Id.* The staff decided, therefore, not to recommend that the Commission issue a special packaging standard for ibuprofen at that time. The staff, however, continued to monitor ingestion data associated with this drug.

Since 1984, ibuprofen gained popularity as an alternative analgesic to aspirin and acetaminophen, and many additional companies are now marketing OTC ibuprofen products. Accidental ingestions of ibuprofen by young children have also increased, and substantial human experience data are now available on the effects of ibuprofen ingestion and overdose. A review of these data by the staff indicates that exposure of young children to OTC products containing ibuprofen may present a risk of serious illness to young children.

Ibuprofen sold OTC is formulated in tablets containing 200 milligrams (mg) of ibuprofen per tablet. Ibuprofen is also available OTC in combination with pseudoephedrine (a nasal decongestant). This combination is in tablet form, each tablet containing 200 mg of ibuprofen. The recommended adult dose for either ibuprofen product is one tablet every four to six hours, with the maximum daily dose not to exceed 1,200 mg per 24 hours. The package labels on both products state: "Do not give this product to children under 12 except under the advice and supervision of a doctor."

After considering the toxicity of ibuprofen, and its availability in the home, the Commission proposed a rule under the PPPA to require special packaging for ibuprofen preparations. 56 FR 30355 (July 2, 1991).

B. Toxicity Data [1, 2]

(Except where indicated otherwise, the statements in section B are based on reference no. 1 in appendix 1.) The toxicity of ibuprofen has been demonstrated in animals and humans. Extrapolation of animal data to humans indicates that the lethal dose in a 10-kilogram (kg) child would be 8,000 to 16,000 mg (800 to 1,600 mg/kg). A case reported in the literature, however, involved a 16-month-old child who ingested 469 mg/kg of ibuprofen, vomited, and died from pneumonia caused by aspiration of the vomitus. This amount of ibuprofen is equivalent to 4,690 mg in a 10-kg child.

Most cases of ibuprofen overdosage result either in no symptoms or in mild gastrointestinal or neurological symptoms. The most common adverse effects observed from the therapeutic use of ibuprofen are gastrointestinal in nature, including abdominal discomfort, nausea, indigestion, and heartburn. Less common reactions include skin rashes, headaches, dizziness, and blurred vision. Hepatic toxicity also has been documented. Although life-threatening toxicity is rare, overdosage has resulted in the following very serious conditions: coma, seizures, apnea (transient cessation of breathing), slowness of heartbeat, hypotension, gastrointestinal bleeding, liver dysfunction, and acute kidney function failure.

For the period of 1978 through 1989, the CPSC's Children and Poisoning (CAP) data base shows 164 ibuprofen ingestions by children under age five that were treated in hospital emergency rooms participating in the National Electronic Injury Surveillance System (NEISS). Of the 164 cases, 66 were known to involve OTC products. Eleven of the 164 cases resulted in hospitalization. Two of the hospitalizations involved OTC preparations.

The American Association of Poison Control Centers' (AAPCC's) National Data Collection System (NDCS) shows a total of approximately 39,900 ibuprofen ingestions by children under age five that were reported to participating poison centers during the 5-year period of 1985 through 1989. Of the 39,900 ingestions, approximately 29,000 involved OTC products. Of those 29,000 cases, there were 89 that AAPCC classified as having significant symptoms, 10 of which were life-threatening. Information is not available on the amounts of ibuprofen ingested in these incidents.

There are two known deaths of children under age 5 associated with ibuprofen. One case, from the CPSC's Death Certificate File, was a 19-month-old child who died in 1982. The immediate cause of death was severe acidosis and heart failure due to an overdose of ibuprofen. The second death, which was reported in the literature, involved a 16-month-old child who ingested 469 mg/kg ibuprofen. This child had episodes of apnea (transient breathing cessation) and seizures and developed sepsis and pneumonia related to the aspiration of vomitus. The child died on the seventh day of hospitalization.

Poisoning episodes reported in the literature also indicate a high level of exposure of young children to ibuprofen preparations. Since the OTC marketing of ibuprofen and the increase in popularity and usage of this drug, several studies of ibuprofen overdosage in children have been reported. Results of these studies show that ibuprofen overdosage appears to be less toxic than overdosage involving other common analgesics, such as aspirin and acetaminophen. In the majority of cases, the children experience either no symptoms or only mild intoxication. In some cases, however, accidental ingestion of ibuprofen has resulted in severe and life-threatening effects, as well as death.

The following cases are examples of the serious risk and the severe trauma to young children that can occur following ingestion of amounts of ibuprofen that are available in OTC packages:

1. A 19-month-old child, weighing 12 kg, was apneic (transient cessation of breathing) a cyanotic (blue from lack of

[1] Numbers in brackets indicate the number of a relevant document as listed in Appendix 1 to this notice.

oxygen) after ingesting seven to ten 400-mg tablets (equivalent to fourteen to twenty 200-mg tablets and 233 to 333 mg/kg of ibuprofen). The child was hospitalized and recovered after intensive medical treatment.

2. A child (age not reported) developed serious symptoms after allegedly ingesting 1,600 to 4,800 mg of ibuprofen. The symptoms included pinpoint pupils, diminished ton of the skeletal muscles, coma, depressed reflexes, hypotension, rapid heart action, and respiratory depression.

3. A 2-year-old child became seriously ill (metabolic acidosis) after ingesting forty 200-mg tablets of ibuprofen (8,000 mg, equivalent to 667 mg/kg). One and one-half hours after ingestion, the child was responsive only to pain and was flaccid and pale. The child was lavaged and given activated charcoal and intravenous dextrose. The child later developed periods of breathing cessation, but eventually recovered after intensive treatment in the hospital.

4. A 15-month-old child developed metabolic acidosis after ingesting an estimated 560 mg/kg of ibuprofen. The child recovered after brief intensive treatment in the hospital.

5. A 5-year-old child developed seizures after ingesting an unknown amount of ibuprofen. The child recovered. No additional information was provided on this case.

C. Level for Regulation [1]

The product labels for OTC ibuprofen preparations caution that the drug should not be given to children under age 12 unless under a doctor's supervision. Ibuprofen in prescription form is used, however, to treat juvenile arthritis at dosages of 20 to 50 mg/kg/day. This total amount is much lower than the dosages recommended for adults and lower than the amounts involved in the accidental ingestion incidents cited above.

The guidelines for treatment of ibuprofen overdosage in children reported in the literature are based on the correlation of the amount of ibuprofen ingested and the development of toxicity. According to these guidelines, ingestion of doses greater than 400 mg/kg can result in serious toxicity. [3] (One of the deaths described above occurred after the child ingested 469 mg/kg of ibuprofen, vomited, and died from pneumonia caused by aspiration of the vomitus.) These guidelines also recommend that ibuprofen ingestions greater than 200 mg/kg should be treated at a health care facility and monitored for potential serious toxicity. For ingestions of 100 to 200 mg/kg of ibuprofen, the guidelines recommend that emesis (vomiting) be induced and the patient monitored at home for any symptoms. For a 10-kg child, 100 mg/kg is equivalent to 1,000 mg (1 gram), or five 200-mg tablets. Because ingestions of this amount require emesis, an emergency room visit may be necessary if syrup of ipecac is not available in the home to induce vomiting.

Based on these guidelines and the toxicity data and human experience data discussed above, the Commission proposed that the level for regulation of ibuprofen should be any oral preparation containing one gram (1,000 mg) or more of ibuprofen in a single package. This rule requires no changes to the packaging of any prescription oral human drug containing ibuprofen that is already subject to a special packaging requirement under the current standard (16 CFR 1700.14(a)(10)).

D. Comments on the Proposal [11, 12]

The Commission received three comments on the proposal. The National Association of Pediatric Nurse Associates & Practitioners [11a], and a consumer who is also a "professional Safety Officer" [11b], supported the proposal.

The third commenter also supported the proposed rule but expressed concern about the use of ingestion data from the American Association of Poison Control Centers' (AAPCC's) National Data Collection System (NDCS) as a measure of ibuprofen toxicity, and about the limitations of the medical case reports.

The Commission does not use the number of ingestions reported to NDCS as a measure of toxicity. Information on the toxicity in animals, symptoms reported, severity of the medical outcome and treatment site are all considered in determining toxicity. Data sources other than NDCS, such as the National Electronic Injury Surveillance System, the Food and Drug Administration's Adverse Reaction Reporting System, consumer complaints, and death certificates, also are used by the staff to assess the toxicity of a substance.The Commission also does not use the NDCS data, alone, to determine any rate of ingestion, as this commenter implied. The Commission's Directorate for Economic Analysis calculates rates based on a NEISS national estimate of ingestions, which is a statistically valid national estimate. The NDCS data referred to by the commenter is not a statistically valid sample.

The commenter also critiques six pediatric cases that were described in the proposal as "examples of the serious risk and severe trauma to young children that can occur following ingestion of ibuprofen." The commenter points out that two of the examples, obtained from different references in the literature, were actually the same case. In addition, the commenter believes that other cases are poorly documented or do not contain sufficient facts to eliminate the possibility that substances other than ibuprofen were ingested. He states further that ibuprofen is less toxic than aspirin or acetaminophen. The commenter, however, concurs with staff that several of these examples probably involved adverse reactions from ibuprofen ingestion and supports the proposed rule.

The Commission is aware of the limitations of the NDCS data and the lack of complete data on many reported incidents. Taken as a whole, however, the available data clearly establish that ibuprofen, in the quantities available in the home in OTC preparations, is capable of causing serious illness or injury in children who ingest the substance. The Commission is also aware of the relative toxicity of ibuprofen and aspirin or acetaminophen. However, it is not necessary to show that a substance is as toxic as other, previously-regulated substances in order to show that child-resistant packaging is needed to prevent serious injury or illness to children. Especially significant in this regard are the available data on animal toxicity, the two known deaths of children due to ibuprofen ingestion, and the 89 ibuprofen ingestion cases over a 5-year period that were classified by AAPCC as involving significant symptoms, 10 of which were classified as life-threatening. See the discussion in Section B of this notice.

E. Technical Feasibility, Practicability, and Appropriateness

General

In issuing a standard for special packaging under the PPPA, the Commission is required by section 3(a)(2) of the PPPA, 15 U.S.C. 1472(a)(2), to find that the special packaging is "technically feasible, practicable, and appropriate."

Some manufacturers of OTC ibuprofen products are currently using child-resistant packaging and have implemented assembly line and mass production techniques for those products. Child-resistant packaging is readily available at low cost for those manufacturers currently using conventional packaging. The manufacturers of child-resistant packaging anticipate no problems supplying the OTC ibuprofen market. In

most cases, manufacturers can incorporate child-resistant packaging into existing packaging lines. If there is a problem modifying existing equipment or obtaining new equipment, contract packers can be used in the interim to package ibuprofen products.

a. Technical Feasibility

Based on the fact that some ibuprofen preparations are already on the market in child-resistant packaging, the Commission concludes that special packaging for ibuprofen is technically feasible because there are package designs that meet the requirements of 16 CFR 1700.15(b) that are suitable for use with the form of this product.

b. Practicability

Special packaging for this product seems practicable in that it is adaptable to modern mass production and assembly line techniques. The Commission anticipates no major supply or procurement problems for the packagers of ibuprofen preparations or the manufacturers of child-resistant closure and capping equipment. In addition, there should be no serious problems experienced by manufacturers of the products in incorporating the child-resistant packaging features into their existing packaging lines.

c. *Appropriateness.* Furthermore, special packaging is appropriate since it is available in forms that are not detrimental to the integrity of the substance and that do not interfere with its storage or use.

Accordingly, the Commission finds that special packaging for ibuprofen preparations is technically feasible, practicable, and appropriate.

F. Economic Information [4]

The Market

The OTC internal analgesic market centers around aspirin, acetaminophen, and ibuprofen. OTC ibuprofen preparations are advertised primarily for general pain and relief of menstrual discomfort. OTC ibuprofen preparations are available only in solid form and only in adult dosages. Aspirin and acetaminophen are available in solid and liquid forms and in both adult and child dosages. Aspirin and acetaminophen products are subject to PPPA special packaging standards, whereas special packaging for OTC ibuprofen products currently is at the option of the manufacturer.

Sales of internal analgesics amounted to $2.1 billion in 1989, with sales of ibuprofen products estimated at $448 million, representing a market share of 21 percent. Companies that manufacture OTC ibuprofen typically have a broad pharmaceutical product line. OTC ibuprofen is available in brand, generic, and private label preparations. Five large pharmaceutical companies marketing brand name products account for about 84 percent of the ibuprofen market; generic and private label preparations account for the remaining 16 percent. The Commission's staff identified 28 generic manufacturers and distributors. Advertising expenditures among the brand name manufacturers were an estimated $100 million per year during 1987 through 1989.

Many OTC ibuprofen preparations that would be affected by the rule are currently marketed in child-resistant packaging, and not all the ibuprofen preparations that are currently available in non-child-resistant packaging will be required to be in child-resistant packaging after the rule becomes effective. The PPPA allows the manufacturers of a nonprescription product that is subject to a special packaging standard to market *one* size of the product without child-resistant packaging if they also market the product in child-resistant packaging and if the product is labeled conspicuously with the statement "this package for households without young children." However, some of the non-child-resistant ibuprofen packaging now on the market will not be allowed by that exemption because they are marketed by manufacturers who currently produce either more than one non-child-resistant package size or only non-child-resistant packages.

Effects on Consumers

The Commission's Directorate for Economic Analysis concludes that the likely effect on consumers of a child-resistant packaging standard for OTC ibuprofen will be a reduction in the number of accidental ingestions by children under age five, based on reduced exposure to the drug in non-child-resistant containers.

From 1985 through 1989, the ibuprofen share of the internal analgesic market increased from an estimated 8.5 percent to an estimated 21 percent. During the same period, emergency room visits associated with ibuprofen ingestions increased from an estimated 695 to an estimated 1,501. There are no data on the proportion of these ingestions that may have involved child-resistant packages.

OTC ibuprofen preparations and OTC aspirin preparations are approved for the same indications and are available in the same types of retail outlets. Based on 1989 injury and sales data, the rate of accidental ingestions per million packages for ibuprofen was 15.5, which is five times greater than the corresponding rate of 3.1 for aspirin. It is likely that this difference is due, in part, to the fact that aspirin preparations are subject to PPPA special packaging requirements and that a similar requirement for ibuprofen preparations will reduce the rate of ibuprofen ingestions. If the current rate of ibuprofen ingestions were reduced to the current rate of aspirin ingestions, the staff estimates that the potential savings to consumers would be about $3 million per year.

Effects on Manufacturers

As noted above, the PPPA provides that manufacturers of nonprescription products subject to child-resistant packaging requirements can market one package size of each regulated product in labeled non-child-resistant packaging, provided they also market the product in child-resistant packaging. Therefore, the special packaging requirement for OTC ibuprofen preparations will not have a direct economic impact on manufacturers that already voluntarily use child-resistant packaging and that also do not offer more than one size of non-child-resistant package for each regulated product. Manufacturers that currently use child-resistant packaging, but offer more than one non-child-resistant package size, will incur the cost to add child-resistant packaging to some portion of their production. Manufacturers that currently are not using child-resistant packaging will incur the additional cost of child-resistant packaging for all except one size of each OTC ibuprofen product.

The staff estimates that about 97 million packages of OTC ibuprofen preparations were sold in 1989, with some unknown proportion sold in child-resistant packages. The incremental cost of child-resistant closures averages one to two cents per package. The Directorate for Economic Analysis estimates that the industry's cost to add child-resistant closures to the entire production of 97 million packages would not exceed $1.2 million. Because of the widespread current use of child-resistant packaging, this cost could be substantially less.

A special packaging regulation for OTC ibuprofen preparations will provide equal packaging requirements for all OTC internal analgesics with similar therapeutic indications. This will relieve any existing competitive disadvantage regarding child-resistant packaging for OTC aspirin and acetaminophen preparations.

G. Effective Date [4]

The PPPA provides that, except for good cause, no regulation shall take effect sooner than 180 days or later than one year from the date such regulation is issued. Based on the available information, the Commission believes that 180 days will provide an adequate period of time for manufacturers to obtain suitable child-resistant packaging and incorporate its use into their packaging lines. Therefore, the special packaging requirement will become effective December 21, 1992 and will apply to all products subject to the rule that are packaged on or after that date.

H. Regulatory Flexibility Act Certification [13]

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 et seq.) generally requires the agency to prepare proposed and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. The purpose of the Regulatory Flexibility Act, as stated in section 2(b) (5 U.S.C. 602 note), is to require agencies, consistent with their objectives, to fit the requirements of regulations to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulations. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The Commission's Directorate for Economic Analysis prepared a Regulatory Flexibility Act Analysis to examine the effect of the proposed rule on small entities. The findings of that analysis are repeated below.

The staff identified 28 generic manufacturers and distributors, some portion of which can be classified as small businesses. These generic companies account for 20% of the ibuprofen preparations market, or an estimated 20 million packages of OTC ibuprofen preparations. The estimated cost to add child-resistant packaging to the entire generic production is low. In addition, because of the current widespread availability of child-resistant packaging and the fact that one package size will be exempt from the proposed rule, it appears likely that the burden on any one manufacturer will be minimal.

The requirements of the rule have been explained previously. There appear to be no reasonable alternatives to PPPA requirements for ibuprofen preparations containing one gram (1,000 mg) or more of ibuprofen in a single package that would adequately reduce the risk of serious personal illness or serious injury to children.

For the reasons mentioned above, the Consumer Product Safety Commission concludes that the rule to require special packaging for ibuprofen preparations containing one gram (1,000 mg) or more of ibuprofen in a single package will not have any significant economic effect on a substantial number of small entities.

I. Environmental Considerations [5]

Pursuant to the National Environmental Policy Act, and in accordance with the Council on Environmental Quality regulations and CPSC procedures for environmental review, the Commission assessed the possible environmental effects associated with Poison Prevention Packaging Act (PPPA) packaging requirements for ibuprofen preparations.

The Commission's regulations, at 16 CFR 1021.5(c)(3), state that rules requiring special packaging for consumer products normally have little or no potential for affecting the human environment. Analysis of the impact of this rule indicates that child-resistant packaging requirements for these ibuprofen products will have no significant effects on the environment. This is because non-child-resistant package inventories will be depleted by the time the rule becomes effective and will not need to be disposed of in bulk. The rule will not significantly increase the number of child-resistant packages in use; in any event, the manufacture, use, and disposal of the child-resistant packages present the same potential environmental effects as do the currently used non-child-resistant packages. Therefore, because this rule has no adverse effect on the environment, neither an environmental assessment nor an environmental impact statement is required.

J. Conclusion

The Commission considered the information described above concerning the need for a special packaging standard for ibuprofen preparations. The Commission also considered:

1. The reasonableness of such a standard,
2. Available scientific, medical, and engineering data concerning special packaging and concerning childhood accidental ingestions, illness, and injury caused by household substances,
3. The manufacturing practices of industries affected by the PPPA, and
4. The nature and use of ibuprofen.

After considering all of the information described above, the Commission determines that:

1. The degree or nature of the hazard to children in the availability of ibuprofen preparations, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting ibuprofen preparations containing one gram (1,000 mg) or more of the drug in a single package and;

2. A special packaging standard for such substances is technically feasible, practicable, and appropriate.

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Reporting and recordkeeping requirements.

For the reasons given above, the Commission amends 16 CFR 1700.14 as follows:

PART 1700—[AMENDED]

1. The authority citation for part 1700 continues to read as follows:

Authority: Pub. L. 91–601, secs. 1–9, 84 Stat. 1670–74, 15 U.S.C. 1471–76. Secs. 1700.1 and 1700.14 also issued under Pub. L. 92–573, sec. 30(a), 88 Stat. 1231, 15 U.S.C. 2079(a).

2. Section 1700.14 is amended by adding new paragraph (a)(20); and the introductory text of paragraph (a) is republished without change, to read as follows:

§ 1700.14 Substances requiring special packaging.

(a) *Substances.* The Commission has determined that the degree or nature of the hazard to children in the availability of the following substances, by reason of their packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances, and the special packaging herein required is technically feasible, practicable, and appropriate for these substances:

* * * * *

(20) *Ibuprofen.* Ibuprofen preparations for human use in a dosage form intended for oral administration and containing one gram (1,000 mg) or more of ibuprofen in a single package shall be packaged in accordance with the provisions of § 1700.15(a), (b), and (c).

* * * * *

Dated: June 12, 1992.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Appendix 1—List of References

(This Appendix will not be printed in the Code of Federal Regulations.)

1. Memorandum from CPSC's Directorate for Health Sciences, dated November 7, 1989, on toxicity of OTC ibuprofen.

2. Memorandum from CPSC's Directorate for Health Sciences, dated November 15, 1989, containing additional information on the toxicity of OTC ibuprofen.

3. Hall, A.G., Smolinske, S.C., Conrad, F.L., Wruk, K.M., Kulig, K.W., Dwelle, T.L., and Rumack, B.G., Ibuprofen Overdose: 126 Cases. Ann Emer Med, 15:1308–1313, 1986.

4. Memorandum from CPSC's Directorate for Economic Analysis, dated April 4, 1991, on economic effects of the proposal.

5. Memorandum from CPSC's Directorate for Economic Analysis, dated April 4, 1991, on environmental considerations.

6. Memorandum from CPSC's Directorate for Economic Analysis, dated April 15, 1991, on impact on small entities.

7. Memorandum from CPSC's Directorate for Health Sciences, dated March 13, 1991, concerning statutory findings.

8. Memorandum from CPSC's Directorate for Health Sciences, dated May 23, 1991, with attached briefing package.

9. Memorandum from CPSC's Directorate for Health Sciences, dated June 6, 1991, with updated ingestion data.

10. Memorandum from CPSC's Office of the General Counsel, dated June 12, 1991, with revised page 6 of the draft **Federal Register** notice incorporating updated ingestion data.

11. Public comments on the proposed rule:
   a. CP5–91–1
   b. CP5–91–2
   c. CP5–91–3

12. Memorandum from CPSC's Directorate for Health Sciences, dated January 15, 1992, analyzing the public comments.

13. Memorandum from CPSC's Directorate for Economic Analysis, dated February 18, 1992, containing the Final Regulatory Flexibility Analysis.

14. Memorandum from CPSC's Directorate for Health Sciences, dated May 20, 1992, with attached briefing package.

[FR Doc. 92–14484 Filed 6–22–92; 8:45 am]

BILLING CODE 6355–01–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Contract Market Rule Review Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending Regulation 1.41 to provide that certain routine changes in contract market rules of futures or option contracts will be deemed approved by the Commission, pursuant to section 5a(12) of the Commodity Exchange Act, 10 days after receipt by the Commission of a proposed change meeting specified standards. Specifically, changes in option strike price listing procedures, changes in the last trading day of an option contract, changes in option cabinet trade provisions, changes in option serial month listing procedures, changes in option automatic exercise provisions, and changes in the financial requirements for delivery facilities or comparable entities will be deemed approved by the Commission, provided that they satisfy conditions set forth in the amendments now being adopted by the Commission. As with existing Regulations 1.41(h) through 1.41(n), the Director of the Division of Trading and Markets and the Director of the Division of Economic Analysis, or their respective delegees, will have the authority to determine whether particular contract market submissions are consistent with the provisions of these amendments.

EFFECTIVE DATE: July 23, 1992.

FOR FURTHER INFORMATION CONTACT: Richard A. Shilts, Supervisory Economist, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Telephone: (202) 254–7303.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. 7a(12), provides that all rules [1] of a contract market which relate to terms and conditions [2] in futures or option contracts traded on or subject to the rules of such a contract market must be submitted to the Commission for its prior approval. The Commission has previously recognized, however, that certain routine contract market proposals relating to terms and conditions do not usually require substantive review and therefore may appropriately merit treatment that is different from that which is normally afforded contract market rule changes (48 FR 49003, October 24, 1983; 50 FR 30135, July 24, 1985; and 56 FR 42683, August 29, 1991). Thus, the Commission has established procedures to expedite the implementation of such rule changes. See Commission Regulations 1.41(h) through 1.41(n).

The Commission now has determined that it is appropriate to adopt similar expedited approval procedures for additional types of common changes in contract terms and conditions. The Commission has identified several categories of contract market rule amendments which, when kept within clearly defined bounds, are unlikely to be inconsistent with any provision of the Act or the Commission's regulations. Expedited implementation of such routine, non-controversial rule changes will provide exchanges with greater flexibility in conducting their operations. In addition, expanding the categories of rule changes eligible for expedited procedures would allow for automatic approval of a large number of common rule changes. The Commission notes that, in the past year, nearly one-fourth of all rule changes processed by the Commission's Division of Economic Analysis were in one of the newly proposed categories listed below and therefore would have been eligible for treatment under the proposed automatic approval procedures.

The instant amendments apply to the following categories of rule amendments: (1) Changes in option strike price listing procedures, including changes to the number of strike prices initially listed and maintained thereafter as well as changes to strike price intervals; (2) changes in the last trading day for options; (3) changes in the "cabinet trade" amount for option transactions in which both sides

[1] Commission Regulation 1.41(a)(1) defines "rule" of a contract market as follows:

Any constitutional provision, article of incorporation, bylaw, rule, regulation, resolution, interpretation, stated policy, or instrument corresponding thereto, in whatever form adopted, and any amendment or addition thereto or repeal thereof, made or issued by a contract market, or by the governing board of thereof or any committee thereof.

[2] Commission Regulation 1.41(a)(2) defines "terms and conditions" as follows:

Any definition of the trading unit or the specific commodity underlying a contract for the future delivery of a commodity or commodity option contract, specification of settlement or delivery standards and procedures, and establishment of buyers' and sellers' rights and obligations under the contract. Terms and conditions shall be deemed to include provisions relating to the following:

(i) Quality or quantity standards for a commodity and any applicable exemptions or discounts;

(ii) Trading hours, trading months and the listing of contracts;

(iii) Minimum and maximum price limits and the establishment of settlement prices;

(iv) Position limits and position reporting requirements;

(v) Delivery points and locational price differentials;

(vi) Delivery standards and procedures, including alternatives to delivery and applicable penalties or sanctions for failure to perform;

(vii) Settlement of the contract; and

(viii) Payment or collection of commodity option premiums or margins.

represent closing transactions; (4) changes in option serial month listing procedures; (5) changes in option automatic exercise provisions; and (6) changes in exchanges' financial standards or requirements for delivery facilities or comparable entities. Each of these items is discussed in greater detail below.

II. Amendments to Regulation 1.41

As mentioned above, current Regulations 1.41(h) through 1.41(n) set forth expedited procedures for certain changes in contract terms and conditions if specified conditions are met. New paragraphs (o)-(t) of Regulation 1.41 provide that changes of the types described in the new categories (1)-(6) above will be effective 10 days after the Commission receives written notice of the change,[3] unless the Commission notifies the contract market within the 10-day period that the submission does not comply with the relevant provisions of those paragraphs. In the event of such notification, the submission will become subject to the usual rule review procedures of Regulation 1.41(b).

Paragraph (o). New paragraph (o) applies to changes in strike price listing procedures for options on futures and options on physicals.[4] This paragraph relates to changes in the number of strike prices listed initially and throughout the life of an option for a specific expiration date and changes to the exchange's specified strike-price interval(s), provided that the amended strike price listing rule continues to provide for procedures that are specified and automatic and do not apply to existing listed strike prices. The first condition limits exchange discretion to well-defined bounds that are consistent with the standards for strike prices set forth in the recent revisions to the Commission's Guideline No. 1 regarding terms and conditions not requiring any analysis or justification at the time of designation of an option contract.[5] The second condition limits exchange discretion so that listed strike prices where traders may have open positions could not be affected.

The Commission reserves the right, however, to suspend the effectiveness of a change submitted under this paragraph and to take review of the change under Regulation 1.41(b). If the Commission takes such action, it will notify the contract market within 10 days after receipt by the Commission of the change. Although the Commission does not anticipate that it would take such action often, there may be instances where a change in strike price listing procedures could raise concerns under the Act necessitating review.

Paragraph (p). New paragraph (p) establishes a similar expedited procedure for changes in the last trading day of an option contract. As with changes in strike price listings under Regulation 1.41(o), such changes will be deemed approved 10 days after the Commission receives written notification of the proposal, provided certain conditions are satisfied. These conditions, set forth below, are consistent with the standards adopted by the Commission in revised Guideline No. 1 regarding option terms and conditions for which no analysis or justification is required at the time of designation (see footnote 5 above).

Specifically, one standard for eligibility for expedited treatment under Regulation 1.41(p) depends upon the type of option contract for which the last trading day is being changed. For futures options not based on cash-settled futures contracts, the option must expire not less than one business day before the earlier of the last trading day or first notice day of the underlying futures contract. For futures options based on cash-settled futures contracts, the option must expire no later than the last trading day of the underlying futures contract. For options on physicals, the option must expire not less than one business day before the earlier of the last trading day or first notice day of any non-cash-settled futures contract in the same or a related commodity, or no later than the last trading day of a cash-settled futures contract in the same or a related commodity. A second standard, which applies to all options, limits exchange discretion such that changes to an option's last trading day may be treated under this paragraph only if the amended rule applies to newly listed options exclusively.

If the Commission determines that a change submitted pursuant to new paragraph (p) is not consistent with the requirements of the paragraph, the Commission will notify the contract market of the inconsistency within 10 days. Such a change will be treated as having been filed pursuant to Commission Regulation 1.41(b).

Paragraph (q). New paragraph (q) of Regulation 1.41 provides that changes related to "cabinet trade" provisions for options on futures and options on physicals contracts may be approved under expedited procedures. For purposes of this proposed paragraph, a cabinet trade is defined as an option trade that represents a closing transaction for both parties to the trade and which is specifically identified as such in the contract market's rules.

To be approved under this paragraph, the initial specification of a cabinet trade rule or a change thereto for an option contract must provide that the per-contract value (or values) of the cabinet trade, typically $1.00 per contract, is (are) less than the per-contract value associated with a trade at the existing minimum premium fluctuation specified in the contract market's rules for that contract. Based on its review of a large number of cabinet trade provisions submitted by the exchanges, the Commission believes that cabinet trade rules meeting this standard do not raise any regulatory concerns and generally would not require Commission review.

If the Commission determines that a change submitted pursuant to new paragraph (q) is not consistent with the requirements of the paragraph, the Commission will notify the contract market of the inconsistency within 10 days. Such a change will be treated as having been filed pursuant to Commission Regulation 1.41(b).

Paragraph (r). New paragraph (r) establishes an expedited procedure for the initial specification of serial option listing procedures of a futures option contract. Serial options arise when exchanges list options with different expiration dates based on the same underlying futures contract month. Recognizing this and for purposes of this proposed paragraph, a serial option is defined as an option contract which is based on the same futures delivery month but which expires earlier than the option contract expiring nearest to but before, or on, the last trading day of the underlying futures delivery month. Such changes will be deemed approved 10 days after the Commission receives written notification of the proposal, provided certain conditions set forth below are satisfied.

At the time exchanges first commenced trading in futures options, the standard practice was to specify

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[3] The 10-day time period commences upon receipt of the written notification by the Commission at its Washington, D.C., headquarters.

[4] An option on a physical is an option that does not include a provision for exercise of the option into a futures contact.

[5] Revised Commission Guideline No. 1 (57 FR 3518, January 30, 1992) includes an "Option Designation Checklist" setting forth standards for certain option terms and conditions (including strike price listing procedures and provisions for option expiration). For each such individual term or condition of the proposed option that complies with such standards, the exchange must only state the rule number or other identification of that term or condition on the checklist. No further analysis or justification of that term or condition is required in the exchange's designation application.

rules providing for one option contract to be based on a particular futures delivery month, with such options expiring either during the futures delivery month, usually for options based on cash-settled futures, or in the month immediately prior to the futures delivery month ("regular" options). After gaining experience with trading futures options, several exchanges adopted rules providing that more than one option would be based on a single futures delivery month. Such "serial" options which expire prior to the regular option are based on the same futures delivery month as the regular option. The only real distinction between the regular options and the serial options is that, at option expiration, serial options have a longer period to the cessation of trading of the underlying futures delivery month.[6]

The Commission has determined that it is appropriate to provide for an expedited approval procedure for exchange rule proposals dealing with serial option listing provisions. This is based on the fact that there is no fundamental economic difference between serial options and regular options for which the Commission has approved listing procedures. Further, in monitoring serial options, the Commission has found no adverse effects on the economic functions of the option markets and no problems have been identified that would warrant a case-by-case review of each such proposal.

To be eligible for treatment under paragraph (r), all rules relating to serial option listings must be specified and automatic. If the Commission determines that a change submitted pursuant to new paragraph (r) is not consistent with the requirements of the paragraph, the Commission will notify the contract market of the inconsistency within 10 days. Such a change will be treated as having been filed pursuant to Commission Regulation 1.41(b).

Paragraph (s). New paragraph (s) of Regulation 1.41 provides that rules relating to the initial specification of, or changes in, automatic exercise procedures for option on futures contracts may be approved under expedited procedures. To be eligible for such treatment, such rules must be specified and objective, apply to only those options having "in-the-money" strike prices, and provide an opportunity for the option holder to override the automatic exercise provision.

The Commission has approved various automatic exercise rules for a number of exchanges' option contracts. Based on its experience in monitoring automatic exercise provisions, the Commission believes that a case-by-case review of each such proposal is not necessary if the foregoing standards are met. Accordingly, the Commission has determined that changes to automatic exercise rules meeting the above standard will be deemed approved 10 days after the Commission reviews written notice of the proposal.

If the Commission determines that a change submitted pursuant to new paragraph (s) is not consistent with the requirements of the paragraph, the Commission will notify the contract market of the inconsistency within 10 days. Such a change will be treated as having been filed pursuant to Commission regulation 1.41(b).

Paragraph (t). New paragraph (t) applies to changes in financial standards or financial requirements for exchange-designated regular delivery facilities or comparable entities specified for futures contracts or option on physicals contracts. Such rule submissions meeting the standards listed below will be deemed approved 10 days after the Commission receives written notice of the proposal.

Examples of changes eligible for treatment under this paragraph are revisions to the insurance or bonding requirements for regular grain warehouses or exchange-approved depositories for precious metals, as well as changes to minimum capital requirements for exchange-specified agent banks or delivery firms. To be approved under this paragraph, the proposed financial standard must be specified in the exchange's rules, be objective, apply uniformly to all existing and potential regular facilities and relate exclusively to the purpose of ensuring the financial integrity of such facilities. In addition, the exchange must include evidence that the proposed standard will not affect the ability of any currently eligible facility to be involved in futures deliveries and also would not affect other likely entrants. For example, higher standards for insurance or increased bonding requirements for regular grain warehouses must not exclude any currently regular warehouses or other likely candidates from regularity status to be eligible for treatment under this paragraph.

The Commission, based on its experience in reviewing such proposals, has determined that, generally, rules relating to financial standards or requirements for regular delivery facilities or comparable entities have no substantive impact on the terms and conditions of a futures contract if the foregoing standards are met. Such rules ordinarily do not raise any regulatory concerns and generally should not require Commission review. Therefore, an expedited approval procedure is warranted for these types of rule change proposals.

If the Commission determines that a change submitted pursuant to new paragraph (t) is not consistent with the requirements of the paragraph, the Commission will notify the contract market of the inconsistency within 10 days. The Commission also will notify the exchange within 10 days if it determines that the change raises issues related to the requirements of the Commodity Exchange Act or the regulations promulgated thereunder. In these cases, the change will be treated as having been filed pursuant to Commission Regulation 1.41(b).

III. Amendments to Regulation 1.41a

In connection with the foregoing amendments to Regulation 1.41, the Commission is adding a technical amendment to paragraph (a)(5) of Regulation 1.41a. This amendment delegates to the Director of the Division of Trading and Markets and to the Director of the Division of Economic Analysis, or their respective delegees, authority to determine whether changes submitted under new paragraphs (o)-(t) of Regulation 1.41 are inconsistent with the relevant provisions of those paragraphs and to notify contract markets if such submissions are to be subject to the usual review procedures under section 5a(12) of the Act and Regulation 1.41(b).

Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, requires that agencies, in adopting rules, consider their impact on small businesses. The Commission has previously determined that contract markets are not small entitites for purposes of the Regulatory Flexibility Act. 47 FR 18618 (April 30, 1982). Therefore, the Chairman hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a

[6] For example, consider a futures contract which provides for delivery in March, June, September and December. Assume that an option based on that futures contract has regular month expirations in the month preceding the underlying futures delivery month; *e.g.*, the option based on the March future expires in February. In this case, an example of a serial option would be an option contract that expires two months prior to the underlying futures contract delivery month; *e.g.*, an option expiring in January that (like the February expiration "regular" option) is based on the March futures delivery month.

significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act. In compliance with the Act, the Commission has submitted these amended rules and their associated information collection requirements to the Office of Mangement and Budget.

While these amended rules have no increased burden, the group of rules (OMB control # 3038–0007) of which they are a part has the following burden:

Average Burden Hours per Response: 50.34.
Number of Respondents: 10,727,182.
Frequency of Response: Monthly.

Persons wishing to comment on the estimated paperwork burden associated with these amended rules should contact Gary Waxman, Office of Management and Budget, room 3228, NEOB, Washington, DC 20503. Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street, NW., Washington, DC 20581, (202) 254–9735.

C. Notice and Comment

Section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), requires in most instances that a notice of proposed rulemaking be published in the **Federal Register** and that opportunity for comment be provided when an agency promulgates new regulations. Section 553(b) sets forth an exception, however, for rules of agency organization, procedure, or practice. The instant amendments provide expedited procedures for the approval of certain contract market rules. The Commission has determined that these amendments relate to internal Commission procedure and practice and therefore that notice and comment is not required.

Section 553(b) also sets forth an exception to the requirement of notice and opportunity for public comment when the Commission for good cause finds such notice and public comment are unnecessary or contrary to the public interest. The Commission finds that notice and public comment on the rule changes announced herein are unnecessary because the changes are technical in nature and do not limit any person's substantive rights. The changes do not establish any new obligations under the Act. On the contrary, these changes simplify compiance with the Act by reducing contract markets' existing obligations. Furthermore, the Commission finds that delay of the implementation of these rules would be contrary to the public interest because it would delay the effectiveness of contract market rules eligible for expedited treatment under these amendments.

List of Subjects in 17 CFR Part 1

Commodity exchanges, Contract market rules, Rule review procedures.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and in particular, sections 4c, 5a, and 8a thereof, 7 U.S.C. 6c, 7a and 12a, the Commission hereby amends Part 1 of Chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. The authority citation for part 1 continues to read as follows:

Authority: 7 U.S.C. 2, 2a, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 19, 21, 23, and 24.

2. Section 1.41 is amended by adding paragraphs (o), (p), (q), (r), (s), and (t) to read as follows:

§ 1.41 Contract market rules; submission of rules to the Commission; exemption of certain rules.

* * * * *

(o) *Option strike price listing procedures.* (1) Notwithstanding the provisions of paragraph (b) of this section, all changes in the number of strike prices listed, both initially when a contract for a specific expiration date is first listed for trading and throughout the life of that option contract, and changes in the strike-price interval(s) shall be deemed approved by the Commission 10 days after written notice of such change is received by the Commission if:

(i) The amended rule provides for a strike-price listing procedure that is specified and automatic.

(ii) The amended rule does not affect any option listed at the time the rule goes into effect.

(iii) The contract market labels the written notice as being submitted pursuant to Commission Regulation 1.41(o).

(2) The Commission will, within 10 days after receipt by the Commission of notice of a change in the strike price listing procedure of an option contract, notify the contract market making the submission if it appears that the change is not consistent with the provisions of this paragraph. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(p) *Option last trading day specification.* (1) For purposes of this paragraph, an option on a future is an option contract that includes a provision for exercise of the option into an underlying futures contract. An option on a physical does not contain such a provision.

(2) Notwithstanding the provisions of paragraph (b) of this section, all changes in the last trading day of an option on a future or an option on a physical shall be deemed approved by the Commission 10 days after written notice of such change is received by the Commission if:

(i) For futures options not based on cash-settled futures contracts, the option expires not less than one business day before the earlier of the last trading day or first notice day of the underlying futures contract; for futures options based on cash-settled futures contracts, the option expires no later than the last trading day of the underlying futures contract; or, for options on physicals, the option expires not less than one business day before the earlier of the last trading day or first notice day of any non-cash-settled futures contract in the same or a related commodity, or no later than the last trading day of a cash-settled futures contract in the same or a related commodity.

(ii) The amended last trading day rule does not apply to any option listed prior to the time the rule goes into effect.

(iii) The contract market labels the written notice as being submitted pursuant to Commission Regulation 1.41(p).

(3) The Commission will, within 10 days after receipt by the Commission of notice of a change in the strike price listing procedure of an option contract, notify the contract market making the submission if it appears that the change is not consistent with the provisions of this paragraph. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(q) *Option cabinet trade provisions.* (1) For purposes of this paragraph, a cabinet trade is defined as an option trade that represents a closing transaction for both parties to the trade and which is specifically identified in the contract market's rules.

(2) Notwithstanding the provisions of paragraph (b) of this section, all initial

specifications of, and changes to, option cabinet trade provisions shall be deemed approved by the Commission 10 days after written notice of such change is received by the Commission if:

(i) The initial specification of a cabinet trade rule or a change thereto provides that the per-contract value (or values) of the cabinet trade is (are) less than the per-contract value associated with a trade at the existing minimum premium fluctuation specified in the contract market's rules for that option contract.

(ii) The contract market labels the written notice as being submitted pursuant to Commission Regulation 1.41(q).

(3) The Commission will, within 10 days after receipt by the Commission of notice of a change in the strike price listing procedure of an option contract, notify the contract market making the submission if it appears that the change is not consistent with the provisions of this paragraph. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(r) *Option serial month listing procedures.* (1) Serial options arise when exchanges list options with different expiration dates based on the same underlying futures contract month. Accordingly, and for purposes of this paragraph, a serial option is defined as a futures option contract which is based on the same futures delivery month but which expires earlier than the option contract expiring nearest to but before, or on, the last trading day of the underlying futures delivery month.

(2) Notwithstanding the provisions of paragraph (b) of this section, all initial specifications of, and changes to, the serial option listing procedures for options on futures (option contracts that include a provision for exercise into a futures contract) shall be deemed approved by the Commission 10 days after written notice of such change is received by the Commission if:

(i) The rule provides for a serial option listing procedure that is specified and automatic.

(ii) The contract market labels the written notice as being submitted pursuant to Commission Regulation 1.41(r).

(3) The Commission will, within 10 days after receipt by the Commission of notice of a rule change relating to the serial option listing procedure of an option on a futures contract, notify the contract market making the submission if it appears that the change is not consistent with the provisions of this paragraph. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(s) *Option automatic exercise procedures.* (1) Notwithstanding the provisions of paragraph (b) of this section, all rules relating to automatic exercise provisions for options on futures shall be deemed approved by the Commission 10 days after written notice of such change is received by the Commission if:

(i) The rule provides for automatic exercise procedures that are specified and objective, apply to in-the-money options only, and provide an opportunity for option holders to override the automatic exercise provision.

(ii) The contract market labels the written notice as being submitted pursuant to Commission Regulation 1.41(s).

(2) The Commission will, within 10 days after receipt by the Commission of notice of a change in the automatic exercise procedures of an option contract, notify the contract market making the submission if it appears that the change is not consistent with the provisions of this paragraph. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

(t) *Financial standards for regular delivery facilities.* (1) Notwithstanding the provisions of paragraph (b) of this section, all changes in the financial standards or financial requirements for regular delivery facilities or comparable entities shall be deemed approved by the Commission 10 days after written notice of such change is received by the Commission if:

(i) The contract market includes evidence that the amended rule does not affect the regularity or delivery status of any existing facility declared regular by the contract market for the relevant commodity(ies) or likely candidates for regularity status.

(ii) The proposed requirement is specified in the rules, is objective and applies uniformly to all existing regular facilities as well as to all applications for regularity.

(iii) The proposed requirement is related solely for the purpose of ensuring the financial integrity of the regular facility(ies).

(iv) The contract market labels the written notice as being submitted pursuant to Commission Regulation 1.41(t).

(2) The Commission will, within 10 days after receipt by the Commission of a rule change relating to the financial standards or requirements for regular delivery facilities, notify the contract market making the submission if it appears that the change is not consistent with the provisions of this paragraph or if the submission raises issues relating to the requirements of the Commodity Exchange Act or the regulations promulgated thereunder. Upon such notification by the Commission to the contract market, the change will be subject to the usual procedures under section 5a(12) of the Act and paragraph (b) of this section.

2. Section 1.41a is amended by revising paragraph (a)(5) to read as follows:

§ 1.41a Delegation of authority to the Directors of the Division of Trading and Markets and the Division of Economic Analysis to process certain contract market rules.

(a) * * *

(5) Pursuant to § 1.41(h)–(t) to determine whether contract market rules submitted pursuant to section 5a(12) of the Act and the provisions of § 1.41(h)–(t) comply with the provisions of § 1.41(h)–(t), as applicable, and, if not, to notify the submitting contract market that such rules are therefore subject to the procedures specified in section 5a(12) of the Act and 1.41(b).

* * * * *

Issued in Washington, DC, on June 17, 1992, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92–14664 Filed 6–22–92; 8:45 am]

BILLING CODE 6351-01-M

17 CFR Part 32

Restrictions on Exempt Commodity Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending rule 32.2, 17 CFR 32.2 (1991), to delete the prohibition in rule 32.2(b) against commodity option transactions involving contracts of sale of any commodity for future delivery traded on or subject to the rules of any contract market or involving the prices of such contracts.[1]

[1] Commission regulations cited herein may be found at 17 CFR ch. I (1991).

EFFECTIVE DATE: June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or George Wilder, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581; telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:.

I. Amendment of Rule 32.2

On September 3, 1991, the Commission proposed rules to amend part 32 of the Commission's regulations.[2] Among other things, the Commission proposed the deletion of rule 32.2(b), which prohibits any person from offering to enter into, entering into, confirming the execution of, or maintaining a position in, any transaction in interstate commerce involving:[3]

Any contract of sale of any commodity for future delivery traded on or subject to the rules of any contract market or involving the prices of such contracts, except under such terms and conditions as the Commission shall prescribe; if the transaction is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guaranty", or "decline guaranty".

The Commission received sixteen comment letters in response to its part 32 rule proposals, nine of which addressed the proposal to delete rule 32.2(b). All nine commenters who addressed rule 32.2(b) supported the Commission's proposal to delete it. The commenters noted, among other things, that commercial parties entering into trade options should not be deprived of the benefits of the efficient price discovery afforded by contract markets and that the deletion of rule 32.2(b) would eliminate uncertainty as to the legality of the use of contract market pricing in trade option transactions.[4] Based upon the foregoing, the Commission has determined to adopt the proposed amendment of rule 32.2 deleting Rule 32.2(b). The Commission intends to address the balance of its proposals concerning rules 32.1, 32.2 and 32.4 in the near future.

II. Paperwork Reduction Act Notice

The Paperwork Reduction Act of 1980 ("PRA"), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The Commission has determined that this rule amendment imposes no recordkeeping or reporting requirement burdens.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously determined that entities affected by the amendment of rule 32.2 are not "small entities" for purposes of the RFA [5] and therefore the Commission believes that the action taken herein, which removes a regulatory restriction, will not have a significant impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 32

Commodity Futures, Commodity Options, Prohibited Transactions and Trade Options.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in particular, sections 2(a)(1)(A), 4c and 8a, 7 U.S.C. 2, 6c and 12a, as amended, the Commission hereby amends chapter I of title 17 of the Code of Federal Regulations as follows:

PART 32—REGULATION OF COMMODITY OPTION TRANSACTIONS

1. The authority citation for part 32 continues to read as follows:

Authority: 7 U.S.C. 2, 6c and 12a (1988).

2. Section 32.2 is revised to read as follows:

§ 32.2 Prohibited transactions.

No person may offer to enter into, enter into, confirm the execution of, or maintain a position in, any transaction in interstate commerce involving wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, onions, solanum tuberosum (Irish potatoes), wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products and frozen concentrated orange juice if the transaction is or is held out to be of the character of, or is commonly known to the trade as, an "option", "privilege", "indemnity", "bid", "offer", "put", "call", "advance guarantee", or "decline guarantee".

Issued in Washington, DC on June 17, 1992 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 92–14665 Filed 6–22–92; 8:45 am]

BILLING CODE 6351–01–M

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[2] 56 FR 43560 (September 3, 1991).

[3] *Id.*, at 43560, 43565.

[4] Although deleting rule 32.2(b) will eliminate language that prohibits trade options "involving" designated futures contracts or the prices of such contracts, a trade option purporting to provide a right to acquire a futures position would continue to be proscribed by provisions of the Act. Specifically, the terms of trade options must comply with section 4(a) of the Act, 7 U.S.C. 6(a), which prohibits offering, entering into, or confirming the execution of any futures contract unless the transaction is executed on or subject to the rules of a designated contract market and by or through a member of such contract market.

[5] 56 FR 43560, 43564 (September 3, 1991).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 203, 234

[Docket No. R–92–1514; FR–2855–0–04]

RIN 2502–AF04

Single Family Development Acceptance of Individual Residential Water Purification Equipment; Announcement of OMB Approval Number

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule; announcement of OMB approval number.

SUMMARY: On March 19, 1992 (57 FR 9602), The Department published in the **Federal Register**, a final rule that set out the circumstances under which the Department would agree to provide FHA Mortgage insurance on single family properties for which a loan-to-value ratio (LTV) greater than 90% is proposed, and when certain of the requirements associated with water supply systems set out in 24 CFR 200.926d(f), and usually applied to such properties, cannot be met.

In the supplementary information section, under the heading Paperwork Reduction Act, it was indicated that the information collection requirements contained in the rule had been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and that the OMB control number, when assigned, would be announced by separate notice in the **Federal Register.**

The purpose of this document is to publish the OMB approval number for the sections described in the final rule

that contained information collection requirements.

EFFECTIVE DATE: June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Donald Fairman, Manufactured Housing and Construction Standards Division, room 6207, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000, telephone, voice: (202) 708–0718; (TDD) (202) 708–4594) (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and are assigned the control number listed.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Social security.

24 CFR Part 203

Hawaiian Natives, Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

Text of the Amendment

Accordingly, parts 200, 203, and 234 of title 24 of the Code of Federal Regulations are amended as follows:

PART 200—[AMENDED]

1. The authority citation for part 200 is revised to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

§ 200.926d [Amended]

2. Section 200.926d is amended by adding at the end of the section, the following statement:

(Approved by the Office of Management and Budget under control number 2502–0474)

PART 203—[AMENDED]

3. The authority citation for part 203 is revised to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, 1715u; 42 U.S.C. 3535(d).

§§ 203.52 and 203.550 [Amended]

4. Sections 203.52 and 203.550 are amended by adding at the end of each section, the following statement:

(Approved by the Office of Management and Budget under control number 2502–0474).

PART 234—[AMENDED]

5. The authority citation for part 234 is revised to read as follows:

Authority: 12 U.S.C. 1707(a), 1715b, 1715y; 42 U.S.C. 3535(d).

§ 234.64 [Amended]

6. Section 234.64 is amended by adding at the end of the section, the following statement;

(Approved by the Office of Management and Budget under control number 2502–0474)

Dated: June 17, 1992.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 92–14690 Filed 6–22–92; 8:45 am]

BILLING CODE 4210–27–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 100

Employee Responsibilities and Conduct

AGENCY: National Labor Relations Board (NLRB).

ACTION: Final rule.

SUMMARY: This rule amends the current standards of conduct for employees of the NLRB with respect to audits and investigations. The amendment requires that employees cooperate fully with any audit or investigation conducted by the Office of the Inspector General, or with any audit or investigation conducted by any Agency official or department, including, but not limited to, the Office of Equal Employment Opportunity, involving matters that relate to or have an effect on the official business of the Agency. Employee failure to cooperate in an audit or investigation may result in disciplinary action against them.

EFFECTIVE DATE: June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Gloria Joseph, Director of Administration, National Labor Relations Board, room 400, 1717 Pennsylvania Avenue, NW, Washington, DC 20570–0001. (202–254–9200).

SUPPLEMENTARY INFORMATION: Government-wide guidelines for employee standards of conduct are established by Executive Order No. 11222 and 5 CFR part 735. Standards of conduct for NLRB employees are delineated at 29 CFR part 100. In accordance with the Inspector General Act Amendments of 1988 (Pub. L. 100–504, amending Pub. L. 95–452; 5 U.S.C. app. 3), the NLRB established an Office of the Inspector General in November 1989. The Office of the Inspector General conducts investigations and audits to prevent and detect waste, fraud, and abuse in the programs and operations of the NLRB. This rule amends the current standards of conduct for the employees of the NLRB by requiring that they cooperate fully with any audit or investigation conducted by the Office of the Inspector General. Additionally, pursuant to 29 CFR 1613.216, the NLRB is responsible for conducting EEO investigations and pursuant to 29 CFR 1613.204(a) for issuing rules, regulations, and instructions necessary to implement such responsibilities. This amendment alerts employees that their failure to cooperate in an audit or investigation may result in disciplinary action against them. No notice of proposed rulemaking has been published because the rule relates to NLRB employees. For the same reason, the rule is not subject to the review requirements of Executive Order No. 12991.

List of Subjects in 29 CFR Part 100

Administrative regulations, Employee responsibilities and conduct.

For the reasons stated in the preamble, part 100 of title 29, Ch. I of the Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: Sec. 6, National Labor Relations Act, as amended (29 U.S.C. §§ 141, 146).

2. The authority citation for subpart A of part 100 is revised as follows:

Authority: Subpart A is also issued under 5 U.S.C. 7301; 18 U.S.C. 201 et seq.; Executive Order 11222; 5 CFR 735.104; the Inspector General Act of 1978, as amended by the Inspector General Act Amendment of 1988, 5

U.S.C. app. 3; 42 U.S.C. 2000e–16(a); 29 CFR 1613.204(a) and 29 CFR 1613.216.

3. Subpart A is amended by adding a new section 100.123 consisting of paragraphs (a) and (b) to read as follows:

§ 100.123 Audits and investigations.

(a) Employees shall cooperate fully with any audit or investigation conducted by the Office of the Inspector General involving matters that fall within the jurisdiction and authority of the Inspector General, as defined in the Inspector General Act of 1978, as amended, or with any audit or investigation conducted by any Agency official or department, including, but not limited to, the Office of Equal Employment Opportunity, involving matters that relate to or have an effect on the official business of the Agency. Such cooperation shall include, among other things, responding to requests for information, providing statements under oath relating to such audits or investigations, and affording access to Agency records and/or any other Agency materials in an employee's possession.

(b) The obstruction of an audit or investigation, concealment of information, intentional furnishing of false or misleading information, refusal to provide information and/or answer questions, or refusal to provide a statement under oath, by an employee to an auditor or investigator pursuant to any audit or investigation as described in paragraph (a) of this section, may result in disciplinary action against an employee. However, nothing herein shall be construed to deny, abridge, or otherwise restrict the rights, privileges, or other entitlements or protections afforded to Agency employees.

Dated, Washington, DC, June 16, 1992.

By direction of the Board.

National Labor Relations Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 92–14654 Filed 6–22–92; 8:45 am]

BILLING CODE 7545–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval, with certain exceptions, of a proposed amendment to the Indiana permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment (Program Amendment Number 91–7C) consists of proposed changes to the Indiana Surface Mining Statute (IC 13–4.1) adopted during the 1991 session of the Indiana legislature under Senate Enrolled Act (SEA) 154. The amendment is intended to make changes to the fees assessed to provide program income, requirements for hearings, and changes to the responsibilities of the director of the Indiana Department of Natural Resources (IDNR), and the Natural Resources Commission (the NRC).

EFFECTIVE DATE: June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Telephone (317) 226–6166.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.15 and 914.16.

II. Submission of the Amendment

By letter dated June 4, 1991 (Administrative Record No. IND–0894), the IDNR submitted a proposed amendment to the Indiana program at Indiana Code (IC) 13–4.1–1 through 13–4.1–6, 13–4.1–6.3, and 13–4.1–6.5. The proposed amendment consisted of Indiana's 1990 SEA 52, 1991 SEA 46, and 1991 SEA 154. These were received as a single proposed amendment. By letter dated June 5, 1991 (Administrative Record No. IND–0886), Indiana requested the OSM to separately process the three statutes as three separate amendments. Consequently, this notice addresses the proposed amendments submitted under Indiana's SEA 154. SEA 154 from the 1991 Legislative Session contains changes to the fees assessed to provide program income, requirements for hearings, and changes in the responsibilities of the director of IDNR and the NRC.

OSM announced receipt of the proposed amendment in the July 9, 1991 **Federal Register** (56 FR 31093), and in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period ended on August 8, 1991. The scheduled public hearing was not held as no one requested an opportunity to provide testimony.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Indiana program. Revisions which are not discussed below concern nonsubstantive wording changes.

A. Revisions to Indiana's Regulation That are Substantively Identical to SMCRA and the Federal Regulations

State regulation	Subject	Federal counterpart
IC 13–4.–1–1–3(6)	Definition of Permit	SMCRA 701(15).
IC 13–4.–1–3–4(a)(14)	Test Borings	SMCRA 508(a)(12).
IC 13–4.–1–3–5	Experimental Practices	SMCRA 711.
IC 13–4.–1–3–6	Regulatory Coordination	30 CFR 773.12.
IC 13–4.–1–4–2	Public Notice	SMCRA 513(b).
IC 13–4.–1–4–3 (a), (b), (c)		SMCRA 510(b), (30).
	Permit approval/denial	CFR 773.15(b)(3).
IC 13–4.–1–4–7	Permit Conditions	30 CFR 773.17(g).
IC 13–4.–1–5–1	Permit Duration	SMCRA 506(b).
IC 13–4.–1–5–2	Permit Transference	SMCRA 506(b).

State regulation	Subject	Federal counterpart
IC 13-4.-1-5-3	Permit Termination	SMCRA 506(c)
IC 13-4.-1-5-4	Permit Renewal	SMCRA 506(d).
IC 13-4.-1-5-6	Permit Revision	SMCRA 511(c).
IC 13-4.-1-7-3	Exploration Permits	SMCRA 512(a).
IC 13-4.-1-8-1 (9), (12), (20), (24)	Performance Standards	SMCRA 515(b) (9), (12), (20), (25).
IC 13-4.-1-8-3	Performance Standards	SMCRA 515(c).
IC 13-4.-1-8-4	Approximate Original Contour	SMCRA 515(e).
IC 13-4.-1-9-2	Surface Effects	SMCRA 516(c)
IC 13-4.-1-9-3	Surface Impacts	SMCRA 516(d)
IC 13-4.-1-10-2(4)	Use of Explosives	SMCRA 516(b)(15)(D)
IC 13-4.-1-11-1(b)(1)	Inspections and Monitoring	SMCRA 517(b)(1).
IC 13-4.-1-11-1.5	Inspections and Monitoring	SMCRA 517(b)(2).
IC 13-4.-1-11-8	Review of Citations	SMCRA 525 (a), (b), (c).
IC 13-4.-1-11-9	Award of Costs	SMCRA 525(e).
IC 13-4.-1-11-11 (g), (h)	Inspections and Monitoring	SMCRA 517(h) (1), (2).
IC 13-4.-1-12-1(d)	Penalties	SMCRA 518(c)

Because the above proposed amendments are identical in meaning to the corresponding Federal provisions, the Director finds the proposed amendments to be no less stringent than SMCRA and no less effective than the Federal regulations.

B. Revisions to the Indiana Program that are not Substantively Identical to the Corresponding Federal Provisions

1. IC 13–4.1–2–3, Conflict of Interest

Indiana is proposing to amend this provision by deleting references to the Bureau of Water and Minerals advisory council. The State has indicated in its submission of this amendment that reference to the Bureau of Water and Minerals has been deleted to conform to the changes to the Indiana program made through Indiana PL 28–1990 (the "sunset" legislation) which was submitted to OSM as program amendment 91–2 and approved on August 2, 1991 (56 FR 37016).

By letter dated December 4, 1989 (Administrative Record Number IND–0721), Indiana submitted proposed amendments to add reference to the Bureau of Water and Minerals Advisory Council to IC 13–4.1–2–3. The proposed amendments were contained in Indiana's 1989 SEA 513 which was promulgated by Indiana on June 11, 1989. However, by letter dated August 9, 1990 (Administrative Record Number IND–0794), Indiana withdrew from the proposed amendments submitted on December 4, 1989, the reference to the Advisory Council proposed at IC 13–4.1–2–3. Reference to the Advisory Council at IC 13–4.1–2–3 was never approved, and consequently, is not part of the approved Indiana program at IC 13–4.1–2–3. Therefore, the Director is not acting on the proposed removal of reference to the Advisory Council from IC 13–4.1–2–3. Indiana can remove the reference without affecting the approved Indiana program.

The Director notes that IC 13–4.1–2–3 is subject to a required program amendment codified in the Federal regulations at 30 CFR 914.16(b). The requirement provides that Indiana shall submit revisions to IC 13–4.1–2–3 or otherwise amend the Indiana program to be consistent with SMCRA at section 517(g) and the Federal regulations at 30 CFR part 705 which provide that no employee of the State regulatory authority performing any function or duty under SMCRA shall have a direct or indirect financial interest in any underground or surface coal mining operation. This required amendment results from a finding by the Director that members of the Indiana Natural Resources Commission are employees who have a function or duty under SMCRA (see 54 FR 51388, December 15, 1989).

2. IC 13–4.1–3–2, Permit Application Fee

Indiana proposes to add to the requirement at subsection (b) that the per ton of coal reclamation fee is required in spite of any other fees paid before July 1, 1991. At subsection (d), Indiana proposes to add language which appropriates the funds for the natural resources reclamation division fund.

The counterpart Federal provision at SMCRA section 503(a) requires the regulatory authority to have sufficient funding to support the operation of the approved program. This amendment will assist the State in financing its surface coal mining program. The Director finds the proposed language to be consistent with the SMCRA provision at section 503(a)(3).

3. IC 13–4.1–4–3.1 Protection of Public Parks and Historic Places

Indiana proposes to amend this provision concerning cultural and historic resources. The Director notes, however, that IC 13–4.1–4–3.1 is the subject of Indiana program amendment number 91–1 which is currently being reviewed by OSM. Therefore, the amendments which concern IC 13–4.1–4–3.1 have been transferred to and will be reviewed under program amendment 91–1 (Administrative Record Number IND–0835).

4. IC 13–4.1–4–4, Notification of Findings and Decision

Indiana proposes to amend this provision by adding language to paragraph (a) which states that if the director of IDNR does not take action on the permit application within 60 days after the conference or public hearing, the applicant may consider the permit application disapproved and request a hearing under IC 13–4.1–4–5. The added language also states that the applicant may waive the time limits required by this section.

Paragraphs (a) and (b) have also been amended to apply to public hearings as well as informal conferences, and to clarify that the director of IDNR and not the NRC is responsible for issuing notification concerning the conferences and hearings.

Indiana has indicated in its submittal that the proposed changes would provide the director of IDNR and the applicant with greater flexibility by allowing an extension to the time period for making a permit decision after an informal conference. Indiana also asserts that the proposed amendments would provide for a clearer path for the applicant to pursue administrative review if the director of IDNR fails to take action on the permit within the specified timeframe.

SMCRA at section 514(a) requires that if an informal conference has been held, the written findings shall be made available within 60 days of the conference. IC 13–4.1–4–4(a) also contains the 60-day requirement. The counterpart Federal regulations at 30 CFR 773.15(a)(1) require the permit decision be rendered within 60 days of

the close of the conference, unless a later time is necessary to provide an opportunity for a hearing under 30 CFR 773.15(b)(2) concerning review of violations. Therefore, Indiana's proposed amendment to authorize the applicant to request a hearing under IC 13–4.1–4–5 if the director of the IDNR does not take action on the permit application within the 60 days is consistent with 30 CFR 773.15(a). Indiana's proposed language which provides that the applicant may consider the application disapproved if the director of IDNR does not act on it within 60 days is also consistent with the Federal regulations because an application which is not specifically approved is, indeed, not approved. Therefore, the Director is approving the amendment which authorizes the applicant to consider the permit application disapproved and request a hearing under IC 13–4.1–4–5 if the director of IDNR does not take action on the permit application within 60 days after an informal conference or public hearing.

The proposed amendment to allow the applicant to waive the 60 day time limit in which the Director must make a permit decision after an informal conference, appears contrary to the language of section 514(a) of SMCRA. Section 514(a) requires the regulatory authority to make written findings approving or denying a permit within 60 days of an informal conference. However, such time periods are generally considered to be directory and not mandatory unless there is a specific consequence for the agency's inaction. See *French* v. *Edwards*, 80 U.S. (13 Wall.) 506 (1871); *Ralpho* v. *Bell*, 569F.2d 607 (D.C. Cir. 1977); *Usery* v. *Whitin Machine Works, Inc.*, 554 F. 2d 498 (1st Cir. 1977). In a letter dated May 19, 1992, (Administrative Record No. IND–1087), Indiana stated that it intends to implement IC 13–4.1–4–4 consistent with SMCRA at section 510(a) and 30 CFR 773.15 in a manner which provides for permitting decisions to be made within a reasonable time. Section 510(a) requires that the regulatory authority shall grant, require modification of, or deny the application for a permit in a reasonable time set by the regulatory authority. Thus, when the directory language of section 514(a) is read in concert with 510(a) of SMCRA, Indiana's proposed language to allow the applicant to waive the time limits of IC 13–4.1–4–4 is not inconsistent with SMCRA and the Federal regulations and can be approved.

5. IC 13–4.1–4–5(c), Hearing Concerning Permit Decision

Indiana proposes to amend paragraph (c) by adding language which states that for all hearings and proceedings commenced after July 1, 1991, the Commission is limited to the record before the director of IDNR. Such a record would include all public, agency, and industry comments submitted to the administrative record as well as all issues or topics presented at any informal conferences. As a consequence, no new issues or topics could be introduced at a hearing that were not previously presented and made part of the record. In addition, paragraph (c) is revised to add the words "and proceedings" following "hearing" and to change the citation from IC 4–21.5–3 to IC 4–21.5.

The proposed amendments should help expedite the hearing proceedings. Section 514(c) and 30 CFR 775.11(b) of SMCRA requires that the hearing be adjudicatory. This amendment does not change this requirement. The Director finds, therefore, that the proposed amendments are no less effective than the Federal regulations at 30 CFR 775.11(b) which states that such a hearing should be on the record and adjudicatory in nature.

6. IC 13–4.1–5–8, Suspension or Revocation of Permits

Indiana proposes to amend this provision by deleting the word "commission" in three locations and adding the word "director" in place of two of the deletions. These changes are consistent with changes in responsibility enacted Indiana PL 28–1990 and approved by OSM as program amendment 91–2 on August 2, 1991 (56 FR 37016). The Director finds that the proposed amendment does not adversely affect the Indiana program and is in accordance with SMCRA at section 503(a)(2) which requires that an approved program contain State laws which provide sanctions for violation of the State program, including suspension, revocation, and the withholding or permits.

7. IC 13–4.1–6–2, Performance Bonds

Indiana proposes to amend this provision by deleting the word "commission" in two places and adding in their place, the word "director." These changes are consistent with changes in responsibility enacted by Indiana PL 28–1990 and approved by OSM as program amendment 91–2 on August 2, 1991 (56 FR 37016). The Director finds that the proposed changes do not adversely affect the Indiana program and are no less stringent than SMCRA at section 509(a) concerning performance bonds.

8. IC 13–4.1–6–7, Release of Bond or Deposit

Indiana is amending this provision to delete occurrences of the word "commission" and add in their places the word "director." The reference under which the director of IDNR shall hold a public hearing is changed from IC 4–21.5–3 to IC 13–4.1–4–2. Language is deleted which required the director of IDNR to make a recommendation to the Commission concerning a determination on the application for bond release, and that the Commission shall notify the permittee of the decision. These changes are consistent with changes in responsibilities enacted by Indiana PL 28–1990 and approved by OSM as program amendment 91–2 on August 2, 1991 (56 FR 37016).

The Director finds, therefore, that the proposed amendments are no less stringent than the counterpart Federal provisions in SMCRA at section 519.

9. IC 13–4.1–6–9, Forfeiture of Bonds

Indiana has amended this provision in several places to change the responsibilities detailed in this provision from the NRC to the director of IDNR. These changes are consistent with the Indiana PL 28–1990, the "Sunset" legislation, approved by OSM under Indiana program amendment 91–2 (56 FR 37016; August 2, 1991). The Director finds that the proposed amendments are consistent with the Federal requirements concerning forfeiture of bonds at 30 CFR 800.50.

10. IC 13–4.1–8–1(10)(G), Performance Standards

Indiana proposes to amend this provision by deleting the words "as the commission may prescribe" and adding in their place, "required under the permit." This change is consistent with changes in responsibility enacted by Indiana PL 28–1990 and approved by OSM as program amendment 91–2 on August 2, 1991 (56 FR 37016). Under Indiana PL 28–1990, the director of the IDNR is responsible for permit decisions. The Director finds that the proposed changes do not adversely affect the Indiana program and are no less stringent than SMCRA at section 515(b)(10)(G).

11. IC 13–4.1–14–1 Areas Unsuitable for Mining

Indiana proposes to amend this provision concerning areas unsuitable for surface coal mining. The Director

notes, however, that IC 13–4.1–14–1 is the subject of Indiana program amendment number 91–1 which is currently being reviewed by OSM. Therefore, the amendments which concern IC 13–4.1–14–1 have been transferred to and will be reviewed under program amendment 91–1 (Administrative Record No. IND–0835).

C. Revisions to Indiana's Program With No Counterpart Federal Provisions

1. IC 13–4.1–2–1, Duties of the Commission

The amendments to this provision consist of additions and deletions which establish the duties of the NRC. In effect, the proposed primary duties of the Commission are the promulgation of rules under IC 13–4.1, performance of all other duties required under Article IC 13–4.1 and to appoint an administrative law judge to conduct administrative proceedings. This amendment also makes administrative law judges the "ultimate authority" for all administrative review proceedings except permit approval, renewal, suspension or revocation proceedings. The Director notes that none of the administrative proceedings (i.e., levels of review) were eliminated by this amendment, it merely proposes to change who performs them.

In its submittal of these amendments, Indiana asserted that these changes are designed to streamline the decision-making process within the IDNR and to provide for more timely administrative or judicial review of decisions and orders made by the IDNR. Indiana also stated that these changes are consistent with Indiana PL 28–1990, the Indiana "sunset" legislation. Amendments to the Indiana program under PL 28–1990 were submitted to OSM as amendment 91–2 and were approved by OSM on August 2, 1991 (56 FR 37016).

Although there are no direct Federal counterparts to the proposed provisions concerning the NRC, the Director finds that the proposed requirements are not inconsistent with SMCRA section 503 concerning the establishment of State programs.

2. IC 13–4.1–2–2, Powers and Duties of the Director of IDNR

Indiana proposes to delete existing language at IC 13–4.1–2–2(a)(7) which requires the director of IDNR to provide the NRC with information and reports as directed by the NRC. The deletion of this wording does not render the Indiana program less effective because in its place, language is added which requires the director of IDNR to do all things necessary to implement article IC 13–4.1. The added language was deleted from (b)(7) where it was optional, not required. The Director finds the proposed provisions are in accordance with SMCRA section 503 which authorizes the establishment of State regulatory programs.

3. IC 13–4.1–3–3(e), Permit Application—Public Inspection

Indiana proposes to amend this provision by deleting the word "commission's" and adding the word "director's" in its place. This change is consistent with changes in responsibilities enacted by Indiana PL 28–1990 (the "Sunset" legislation) and approved by OSM as program amendment 91–2 on August 2, 1991 (56 FR 37016). While there is no direct Federal counterpart to the proposed amendment, the Director finds that the proposed amendment is not inconsistent with SMCRA at section 507(e) and the Federal regulation at 30 CFR 773.13(a) and that the changes will not adversely affect the Indiana program.

IV. Summary and Disposition of Comments

Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various interested Federal agencies. The U.S. Environmental Protection Agency responded that it had no comments and concurs with the proposed changes. The U.S. Soil Conservation Service, Forest Service, Fish and Wildlife Service, Bureau of Mines, and the U.S. Army Corps of Engineers, Management and Disposal Division responded and had no comments to offer.

Public Comments

The public comment period and opportunity to request a public hearing was announced in the July 9, 1991, **Federal Register** (56 FR 31093). The comment period closed on August 8, 1991. No one requested an opportunity to testify at the scheduled public hearing so no hearing was held.

By letter dated August 6, 1991 (Administrative Record No. IND–0925), the Indiana Coal Council, Inc. (ICC) commented in support of the amendments. In particular, the ICC commented in support of the proposed amendments to reorganize the IDNR with respect to the powers and duties of the director of IDNR and the NRC; IC 13–4.1–2–1 which authorizes the NRC to appoint administrative law judges to act as the ultimate authority for certain administrative decisions; and IC 13–4.1–4–5(c) which restricts the scope of administrative review of permit approval and disapproval decisions to the administrative record developed in the permit review process. As discussed in the findings, the Director is approving the proposed amendments. The ICC believed that the transfer of permit approval and administrative review authority was a matter of internal organization of the IDNR and not within OSM's purview. The Director disagrees. Pursuant to 30 CFR 732.17, the Federal regulations require OSM to review changes in the authority of the State to implement, administer or enforce its approved State program.

By letter dated August 3, 1991 (Administrative Record No. IND–0927) the Hoosier Environmental Council responded but had no specific comments concerning the proposed amendments.

V. Director's Decision

Based on the above findings, except as noted below, the Director is approving proposed Program Amendment No. 91–7C as submitted by Indiana on June 4, 1991, and as clarified by letter dated May 19, 1992. As discussed in Finding B(1), the Director is not acting on the proposed removal of reference to the Advisory Council from IC 13–4.1–2–3.

As discussed in Findings B(3) and B(11) respectively, the following proposed amendments submitted by Indiana under SEA 154 have been transferred to and will be reviewed under proposed amendment number 91–1 (Administrative Record No. IN–0835): IC 13–4.1–4–3.1 concerning protection of public parks and historic places; and IC 13–4.1–14–1 concerning areas unsuitable for mining.

The Federal regulations at 30 CFR part 914 codifying decisions concerning the Indiana program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage the states to conform their programs with the Federal standards without delay. Consistency of State and Federal standards is required by SMCRA.

EPA Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The Director has determined that this

amendment contains no provisions in these categories and that EPA's concurrence is not required. However, EPA responded to the Director's request for comments and stated that EPA had no comments and that it concurred on the proposed amendment (Administrative Record No. IND–0919).

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In his oversight of the Indiana program, the Director will recognize only the statutes, regulations and other materials approved by him, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Indiana of only such provisions.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of E.O. 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined, to the extent allowed by law, that this rule meets the applicable standards of section 2(a) and 2(b) of E.O. 12778. Under SMCRA 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval, or conditional approval of State program amendments.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 22, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended by adding a new paragraph (nn) to read as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(nn) The following amendments (Program Amendment Number 91–7C) to the Indiana program as submitted to OSM on June 4, 1991, and clarified on May 19, 1992, are approved, except as noted herein, effective June 23, 1992: Changes to IC 13–4.1 resulting from Indiana Senate Enrolled Act 154 concerning changes to the fees assessed to provide program income, requirements for hearings, and changes to the responsibilities of the director of IDNR and the Natural Resources Commission. No action is taken on the proposed removal of reference to the Advisory Council from IC 13–4.1–2–3. The following amendments which concern proposed changes to Indiana's archaeological and historical preservation provisions have been transferred to and will be reviewed with proposed Indiana amendment 91–1 (Administrative Record No. (IN–0835): IC 13–4.1–4–3.1 concerning protection of public parks and historic places; and IC 13–4.1–14–1 concerning areas unsuitable for mining.

[FR Doc. 92–14577 Filed 6–22–92; 8:45 am]
BILLING CODE 4310–05–M

30 CFR Part 931

New Mexico Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of proposed amendment.

SUMMARY: OSM is announcing its decision to approve a proposed amendment to the New Mexico permanent regulatory program (New Mexico program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to water control measures for valley fills constructed of excess spoil and coal processing waste banks. The amendment revises the New Mexico program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Robert H. Hagen, Telephone (505) 776–1486.

SUPPLEMENTARY INFORMATION:

I. Background on the New Mexico Program

On December 31, 1980, the Secretary of the Interior conditionally approved the New Mexico program. General background information on the New Mexico program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the New Mexico program can be found in the December 31, 1980, Federal Register (45 FR 86459). Subsequent actions concerning New Mexico's program and program amendments can be found at 30 CFR 931.15, 931.16, and 931.30.

II. Proposed Amendment

By letter dated November 22, 1991 (Administrative Record No. NM–669), New Mexico submitted a proposed amendment to its permanent regulatory program pursuant to SMCRA. New Mexico submitted the proposed amendment in response to a June 1, 1990, letter from OSM to New Mexico (Administrative Record No. NM–590). The provision of the Coal Surface Mining Commission (CSMC) rules that

New Mexico proposed to amend are (1) CSMC Rule 80–1–20–72(d), which concerns diversion channel design for excess spoil valley fills, and (2) CSMC Rule 80–1–20–83(b), which concerns surface drainage control for coal processing waste banks.

OSM published a notice in the December 13, 1991, **Federal Register** (56 FR 65032) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. NM–674). The public comment period closed January 13, 1992.

III. Director's Findings

After a thorough review, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, the Director finds that the proposed amendment as submitted by New Mexico on November 22, 1991, is no less stringent than SMCRA and no less effective than the corresponding Federal regulations.

1. CSMC Rules 80–1–20–72(d), Water Control Measures for Excess Spoil Valley Fills

New Mexico proposed to revise CSMC Rule 80–1–20–72(d) to require that surface water runoff from areas above a valley fill constructed of excess spoil and runoff from the fill surface be diverted into stabilized channels designed (1) in accordance with the diversion design requirements at CSMC Rule 80–1–20–43 and (2) to safely pass the runoff from a 100-year, 6-hour precipitation event.

The requirements of the proposed rule are substantively identical to the corresponding Federal regulations at 30 CFR 816.72(a)(2) and 817.72(a)(2) except that it allows the Director of the Mining and Minerals Division (MMD) to specify a larger design precipitation event than the 100-year, 6-hour event for channels used to divert runoff from areas above the fill. Because specification of a larger design precipitation event would provide additional protection for the channels and, subsequently, would improve the stability of the fill, the Director finds that New Mexico's proposed CSMC Rule 80–1–20–72(d) is no less effective than the corresponding Federal regulations at 30 CFR 816.72(a)(2) and 817.72(a)(2) and approves it.

2. CSMC Rules 80–1–20–83(b), Water Control Measures for Coal Processing Waste Banks

New Mexico proposed to revise CSMC Rule 80–1–20–83(b) to require that all surface drainage from the area above a coal processing waste bank and from the crest and face of such waste disposal areas be diverted in accordance with CSMC Rule 80–1–20–72(d).

The corresponding Federal regulations at 30 CFR 816.83(a)(2) and 817.83(a)(2) prohibit the diversion of uncontrolled surface drainage over the outslopes of refuse piles and, accordingly, require that runoff from areas above refuse piles and from the surface of refuse piles be diverted into channels designed (1) to meet the requirements of 30 CFR 816.43 and 817.43 and (2) to safely pass the runoff from a 100-year, 6-hour precipitation event. The Federal regulations also provide that runoff from undisturbed areas around a refuse pile need not be commingled with the runoff from the surface of the refuse pile.

Although New Mexico's proposed CSMC Rule 80–1–20–83(b) uses the term "coal processing waste bank" where the corresponding Federal regulations at 30 CFR 816.83(a)(2) and 817.83(a)(2) use the term "refuse pile," the proposed rule, by reference to section 20–72(d), provides the same requirements as the Federal regulations. By Federal definition at 30 CFR 701.5, "refuse pile" means a surface deposit of coal mine waste (coal processing waste and underground development waste) that does not impound water, slurry, or other liquid or semi-liquid material. New Mexico's approved definition of "coal processing waste banks" at CSMC 80–1–1–5, has the same meaning and is no less effective than the Federal definition of "refuse pile" (56 FR 67520, December 31, 1991). Thus, New Mexico's "coal processing waste banks" contain the same materials as Federal "refuse piles" contain, and New Mexico's CSMC Rule 80–1–20–83 applies to the same waste disposal areas as do the Federal regulations at 30 CFR 816.83 and 817.83.

In addition, as discussed in finding No. 1 above, the Director approves New Mexico's proposed CSMC Rule 80–1–20–72(d) which, like the Federal regulations, requires that surface runoff from areas above the fill and runoff from the fill surface be diverted into stabilized channels designed (1) in accordance with the diversion performance standards at CSMC Rule 80–1–20–43 and (2) to safely pass the runoff from a 100-year, 6-hour precipitation event. Although CSMC Rule 80–1–20–72 specifically concerns the disposal of excess spoil in valley fills and does not mention "excess spoil" or "valley fill," its requirements at paragraph (d) are appropriate for coal processing waste banks. A "fill" is, among other things, anything that fills or is used to fill a space, or is a piece of land artificially raised to a higher level. Thus, a surface deposit of material in a coal processing waste bank is considered to be a "fill." In addition, the applicability of the requirements of paragraph (d) is not dependent on the type of material in the fill, the material's position within the fill, or on the topographic location of the fill. Therefore, the requirements at paragraph (d) are as applicable to coal processing waste banks as to excess spoil fills.

Further, the Federal provisions at 30 CFR 816.83(a)(2) and 817.83(a)(2) concerning the commingling of runoff from undisturbed areas with runoff from the surface of refuse piles is a clarification rather than a requirement. Therefore, lack of a provision in New Mexico's proposed CSMC Rule 80–1–20–83(b) concerning the commingling of runoff does not render New Mexico's proposed rule less effective than the corresponding Federal regulation.

For these reasons, the Director finds that New Mexico's proposed CSMC Rule 80–1–20–83(b) is no less effective than the corresponding Federal regulations at 30 CFR 816.83(a)(2) and 817.83(a)(2) and approves it.

IV. Public and Agency Comments

Public Comments

OSM solicited public comments and provided opportunity for a public hearing on the proposed amendment. No comments were received from the public. Because no one requested an opportunity to testify at a public hearing, no hearing was held.

Agency Comments

Pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(h)(11)(i), the OSM solicited comments from the Administrator of the Environmental Protection Agency (EPA) and various other Federal agencies with an actual or potential interest in the New Mexico program.

EPA, Region 6, and the Bureau of Land Management responded that they had no objections to the proposed amendment (Administrative Record Nos. NM–673 and NM–676).

The Bureau of Mines and the Soil Conservation Service responded that they had no comments on the proposed amendment. (Administrative Record No. NM–675 and NM–671).

The U.S. Army Corps of Engineers responded that it found the proposed amendment to be satisfactory (Administrative Record No. NM–672).

The Mine Safety and Health Administration (MSHA) responded that New Mexico's proposed amendment is acceptable and does not appear to conflict with current MSHA regulations

(Administrative Record No. NM-678). MSHA also commented that its regulations addressing control of runoff from refuse piles, contrary to New Mexico's proposed rules, do not specify "the size of the design storm to be used, nor does it specify the method to divert the runoff." However, MSHA generally recommends "for each refuse pile, a diversion ditch capable of handling the 100-year, 6-hour design storm," which is the storm-design requirement at New Mexico's CSMC Rules 80-1-20-72(d) and 80-1-20-83(b).

EPA Concurrence

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the Administrator of EPA with the respect to provisions of the State program amendment which relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*)

None of the changes that New Mexico proposes to its rules pertain to air or water quality standards. Therefore, OSM did not request EPA's concurrence on the proposed amendment.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by New Mexico on November 22, 1991. The Director's approval of the proposed amendment is contingent upon New Mexico's promulgation of the proposed revisions in the identical form as submitted to and approved by OSM.

To implement this decision, the Director amends the Federal regulations at 30 CFR part 931 that codify all decisions concerning the New Mexico program. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

National Environmental Policy Act

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Accordingly, for this action OSM is exempt from the requirement to prepare a regulatory impact analysis, and this action does not require regulatory review by OMB. The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal regulations will be met by the State.

Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of E.O. 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined, to the extent allowed by law, that this rule meets the applicable standards of sections 2(a) and 2(b) of E.O. 12778. Under SMCRA section 405 and 30 CFR 884 and section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval or conditional approval of State program amendments.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 931

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 22, 1992.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 931—NEW MEXICO

1. The authority citation for part 931 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 931.15 is amended by adding a new paragraph (q) to read as follows:

§ 931.15 Approval of amendments to State regulatory program.

* * * * *

(q) The revisions to the following New Mexico Coal Surface Mining Commission (CSMC) rules, as submitted on November 22, 1991, are approved effective June 23, 1992:

Diversion channel design for valley fills—80-1-20-72(d).

Surface drainage control for coal processing waste banks—80-1-20-83(b).

[FR Doc. 92-14576 Filed 6-22-92; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

Mandatory Disclosure of Social Security Numbers

AGENCY: Department of Veterans Affairs.

ACTION: Technical amendment.

SUMMARY: The Department of Veterans Affairs (VA) has amended its adjudication regulations concerning the disclosure of social security numbers and the discontinuance of compensation and pension benefits. The intended effect of this technical amendment is to conform the regulation to the plain statutory language.

EFFECTIVE DATE: This amendment is effective November 5, 1990, the date the legislation was signed into law.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-3005.

SUPPLEMENTARY INFORMATION: VA published a final regulation to add a new § 3.216 to 38 CFR in the **Federal Register** of March 9, 1992 (57 FR 8267-8). That rulemaking implemented section 8053 of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, which amended 38 U.S.C. 5101 (formerly 3001) by authorizing the Secretary to require any person who applies for or receives compensation or pension benefits to disclose his or her social security number, and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, benefits are sought or received, to VA upon request. The current language of § 3.216 does not conform to the statutory provisions as it does not require the termination or denial of benefits when a claimant or recipient fails to furnish the social

security number of the beneficiary based upon whom benefits are sought or received. 38 CFR 3.216 has been amended to correct this oversight.

VA is amending 38 CFR 3.216 in order to conform the regulatory language to the statutory provisions. Because this amendment does not constitute a substantive change, publication as a proposal for public comment is unnecessary.

Since a notice of proposed rulemaking is unnecessary and will not be published, this amendment is not a "rule" as defined in and made subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2). In any case, this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601–612. This amendment will not directly affect any small entity.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.104, 64.105, 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: June 10, 1992.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 105 Stat. 386; 38 U.S.C. 501(a), unless otherwise noted.

§ 3.216 [Amended]

2. In § 3.216, the first and third sentences, after the words "the social security number of any dependent", remove the words "for whom", and add, in their place, the words "or beneficiary on whose behalf, or based upon whom,".

[FR Doc. 92–14702 Filed 6–22–92; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL 12–16–5434; FRL–4145–6]

Reconsideration of Certain Federal RACT Rules for Illinois

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of partial stay and reconsideration.

SUMMARY: On November 20, 1991, USEPA announced a 3-month partial stay and reconsideration of certain Federal rules requiring reasonably available control technology (RACT) to control volatile organic compound (VOC) emissions in the Illinois portion of the Chicago ozone nonattainment area. That action was taken pursuant to Clean Air Act (CAA) section 307(d)(7)(B), which authorizes the Administrator to stay the effectiveness of a rule during reconsideration. Elsewhere in the November 20, 1991, **Federal Register**, USEPA proposed to extend the stay beyond the 3-month period, if and as necessary to complete reconsideration of the subject rules (including any appropriate regulatory action), pursuant to CAA sections 110(c) and 301(a)(1). Public comment was solicited on USEPA's proposed extension of the stay and an opportunity for requesting a public hearing was provided.

No public comments were received in response to USEPA's proposed rulemaking. Today's rulemaking announces USEPA's final rule imposing a stay for the rules under reconsideration, until USEPA completes reconsideration of these rules.

EFFECTIVE DATE: June 12, 1992.

ADDRESSES: The docket for this action (Docket No. 5AR92–1) is located for public inspection and copying at the following addresses. We recommend that you contact Randolph O. Cano before visiting the Chicago location and Gloris Butler before visiting the Washington, D.C. location. A reasonable fee may be charged for copying.

U.S. Environmental Protection Agency, Region V, Regulation Development Branch,
77 West Jackson Street,
Chicago, Illinois 60604,
(312) 886–6036.

U.S. Environmental Protection Agency,
Docket No. 5A–91–1,
Public Information Reference Unit (pm–211D) room 2904,
Wasterside Mall, 401 M Street SW,
Washington, DC 20460,
(202) 245–3639.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano (AR–18J), Regulation Development Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois, 60604, (312) 886–6036.

SUPPLEMENTARY INFORMATION: On November 20, 1991, (56 FR 58528) USEPA proposed to extend a 3–month stay imposed on November 20, 1991 (56 FR 58501), for the following RACT rules, including the applicable compliance dates being reconsidered: (1) The emission limitations and standards for paper coating operations only as they apply to Riverside Laboratories, Inc. (55 FR at 26868–874, codified at 40 CFR 52.741(e)), as well as the August 30, 1991, compliance date (56 FR 33710, 33712 (July 23, 1991), to be codified at 40 CFR 52.741(z)(4)); and (2) the "other emission sources" rule and the recordkeeping and reporting requirements for non-CTG sources only as they apply to Reynolds Metals Company (55 FR 26884–886, codified at 42 CFR 52.741(x) and (y)), as well as the August 30, 1991, compliance date (56 FR at 33710, 33712, to be codified at 40 CFR 52.741(z)(4)).

It should be noted that in the November 20, 1991 (56 FR 58528) proposed rule on page 58529 in the first full paragraph in the middle column the codification citation for the compliance date for both 40 CFR 52.741(e) and 40 CFR 52.741(x) and (y) were incorrectly listed as 40 CFR 52.741(z)(2). The correct citation is 40 CFR 52.741(z)(4). This citation was correctly presented in the Notice of Stay and Reconsideration which was also published on November 20, 1991 (56 FR 58501). USEPA regrets any inconvenience that this improper citation in the proposed rule may have caused.

The proposed stay beyond the three months expressly provided in section 307(d)(7)(B) was to remain in effect until withdrawn by a subsequent rule, but only if and as necessary to complete USEPA's rulemaking on the reconsidered actions. The November 20, 1991, notice proposed to issue the stay pursuant to CAA sections 110(c) and 301(a)(1), 42 U.S.C. 7410(c) and 7601(a)(1).

Final Rulemaking Action

Because no public comments were received concerned USEPA's proposed rulemaking action to extend the stay beyond the three months provided in section 307(d)(7)(B) of the CAA (42 U.S.C. 7607(d)(7)(B)), USEPA announces an extension of the stay for Riverside Laboratories and Reynolds Metals Company, but only as long as necessary to complete reconsideration of the rules identified in the proposal.

At that time, USEPA will publish a rule in the Federal Register notifying the public of the withdrawal of this stay.

USEPA intends to complete its reconsideration of the rules and, following the notice and comment procedures of § 307(d) of the CAA, take appropriate action. If the reconsideration results in emission limitations and standards which are different than the otherwise applicable Federal Implementation Plan rules, USEPA will propose an appropriate compliance period following final adoption of the new emission limitations and standards. In essence, USEPA will seek to ensure that the affected parties are not unduly prejudiced by the Agency's reconsideration. Note that, like the rules themselves, any USEPA proposal regarding the appropriate compliance period would be subject to the notice and comment procedures of CAA section 307(d).

USEPA recognizes the interests of the State of Wisconsin in this matter. The regulatory requirements that are affected by today's proposal were undertaken in the context of a settlement agreement between USEPA and the States of Wisconsin and Illinois. In recognition of those obligations, USEPA will reconsider the rules in question as expeditiously as practicable.

This stay will be effective immediately upon signature of the Administrator pursuant to the Administrative Procedure Act, 5 U.S.C. 533(d) (1) and (3) for good cause and because it relieves a restriction.

Correction

In the codification of a Stay affecting Viskase Corporation, Allsteel, Incorporated and General Motors Corporation which was published in the May 31, 1991, Federal Register (56 FR 24722) in the third column on page 24723, in § 52.741(z)(1) the date on which the stay was initiated was incorrectly listed as January 4, 1991. The correct date on which the stay was initiated is July 1, 1991. USEPA is correcting this error in today's Federal Register. USEPA regrets any inconvenience that this error has caused.

Under Executive Order 12291, this action is not "Major". It has been submitted to the Office of Management and Budget for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Ozone.

Dated: June 12, 1992.

F. Henry Habicht II,
Acting Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 is revised to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart O—Illinois

2. Section 52.741, is amended by revising paragraphs (z)(1) and (z)(4) to read as follows:

§ 52.741 Control strategy: Ozone control measures for Cook, DuPage, Kane, Lake, McHenry and Will Counties.

* * * * *

(z) * * *

(1) The following rules are stayed from July 1, 1991, until USEPA completes its reconsideration as indicated:

(i) 40 CFR 52.741(e)(1)(i)(M)(*2*) and (*3*), and 40 CFR 52.741(e)(5);

(ii) 40 CFR 52.741(u) and (v), including 40 CFR 52.741(u)(4) and (v)(4) only as it applies to Viskase Corporation's cellulose food casing manufacturing facility in Bedford Park Illinois; and

(iii) 40 CFR 52.741(u), including 40 CFR 52.741(u)(4), only as applies to Allsteel Incorporated's adhesive lines at its metal furniture manufacturing operations in Kane County, Illinois.

When USEPA concludes its reconsideration, it will publish its decision and any actions required to effectuate that decision in the Federal Register.

* * * * *

(4) The following rules are stayed from June 12, 1992 until USEPA completes its reconsideration as indicated:

(i) 40 CFR 52.741(e) only as it applies to Riverside Laboratories Incorporated; and

(ii) 40 CFR 52.741(x) and (y) only as it applies to Reynolds Metals Company.

When USEPA concludes its reconsideration, it will publish its decision and any actions required to effectuate that decision in the Federal Register.

[FR Doc. 92–14607 Filed 6–22–92; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Parts 52 and 81

[KS1–1–5439; FRL–4126–6]

Approval and Promulgation of Implementation Plans; and Designation of Areas for Air Quality Planning Purposes; State of Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In today's notice EPA is taking final action to approve revisions to the Kansas State Implementation Plan (SIP). The revision includes the Kansas ozone maintenance plan for the Kansas City area and related Kansas rule revisions. EPA is also approving the state's request to redesignate Johnson and Wyandotte Counties (the Kansas portion of the Kansas City nonattainment area) to attainment with respect to the ozone National Ambient Air Quality Standard (NAAQS). In a separate Federal Register notice published today, EPA is taking a concurrent final action regarding the Missouri maintenance plan and redesignation request for the Missouri portions of the Kansas City nonattainment area.

EFFECTIVE DATE: This rule will become effective on July 23, 1992.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at: the Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; the Kansas Department of Health and Environment, Forbes Field, Building 740, Topeka, Kansas 66620, and the Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (913) 551–7602 (FTS 276–7602).

SUPPLEMENTARY INFORMATION: .

I. Background

Three years of quality assured ambient air quality data, for the period 1989 through 1991, indicate that the Kansas City ozone nonattainment area has attained the NAAQS for ozone. Therefore, in accordance with the Clean Air Act (CAA), as amended, and to ensure continued attainment of the standard with an adequate margin of

safety, the state of Kansas has submitted an ozone maintenance plan which projects continued attainment of the ozone standard in the Kansas City area.

Both the Kansas and Missouri plans meet all the applicable requirements of the CAA, as amended. The Kansas submittal complies with section 175A of the Act which sets forth maintenance plan requirements for areas seeking redesignation from nonattainment to attainment. The state's demonstration of continued attainment relies in part on EPA's Phase II gasoline volatility requirements. The plan demonstrates continued attainment of the applicable NAAQS for at least ten years after the area is redesignated.

Eight years after the redesignation, the state commits to submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. And, in the event of future NAAQS violations, the maintenance plan contains contingency measures adequate to ensure prompt correction of the air quality problem.

Accompanying the maintenance plan are new state rules which control certain categories of sources which emit volatile organic compounds (VOC) emissions.

Finally, the state submittal also includes a redesignation request in which the state demonstrates that the area has fulfilled the redesignation requirements of the amended Act pursuant to section 107(d)(3)(e).

On January 15, 1992, in the Federal Register (57 FR 1705), EPA proposed to approve the state's maintenance plan and Reasonably Available Control Technology (RACT) rules and to promulgate the redesignation. (In a separate notice published the same day, EPA proposed to approve an analogous maintenance plan and redesignation request submitted by the state of Missouri.) The reader should consult EPA's proposed rulemaking and technical support document for a detailed discussion of the state's submission, the relevant requirements of the Act, and EPA's proposed action.

II. Response to Comments

EPA received 71 letters commenting on the proposed rulemaking. All commenters supported the proposed action except one (Phillips Petroleum Company, Bartlesville, Oklahoma). Phillips requested that EPA disapprove the maintenance plan based on four arguments. Phillips' comments consist of three technical issues concerning the demonstration included by Kansas and Missouri to show that the area would continue to maintain the ozone standard, and one policy issue concerning the appropriate mix of controls necessary to maintain the standard. A summary of Phillips' comments, and EPA's response to them, follow.

Comment: Phillips alleges that the methodology that Kansas used in plan development is unable to quantitatively determine the types of ozone precursor control needed and the extent to which precursor emissions reductions (including NO_x) may be required to maintain the ozone standard. Phillips alleges that EPA should require urban grid-based air quality modeling.

Response: In the 1990 Amendments to the Act, Congress specifically added section 175A which specifies the requirements for maintenance plans. There is no requirement in section 175A, or in other applicable provisions of the Act, for photochemical grid modeling to demonstrate maintenance of the ozone standard in areas like Kansas City, which have attained the standard. Such modeling is only required for certain areas which have not attained the standard. The requirement for such modeling applies to those areas with the more serious or complex ozone nonattainment problems (e.g., section 182(c)(2)(A), which requires modeling for areas classified as "serious"). EPA believes the lack of such a requirement for maintenance plans was intended to give EPA and the states flexibility in demonstrating maintenance of the standard. Accordingly, for maintenance demonstrations, EPA believes that states may make the demonstration through one of two alternatives:

(1) A demonstration that the future emission inventory will not exceed the inventory that existed at the time of the request for redesignation, or (2) an appropriate modeling analysis which shows that the future mix of sources and emission rates, when combined with the control strategy for the area, will not cause any violations of the ambient standards. Of these two choices, the state elected to base its maintenance demonstration on the emission inventory analysis. EPA believes that the projection and analysis of future emissions meet the requirements of section 175A, and that the state's emission inventory methodology is consistent with EPA guidance, as discussed in the proposed rulemaking.

Phillips also suggested that NO_x emissions should be examined using the photochemical grid model because an increase in NO_x emissions could result in violations of the ozone standard without an increase in VOC emissions. EPA agrees that violations caused by increased NO_x emissions are theoretically possible, although the exact relationship between NO_x emissions and the formation of ozone is not certain. However, in the case of the Kansas City maintenance plan, EPA performed an analysis of projected NO_x emissions for the metropolitan area. EPA's analysis showed no increase in NO_x emissions through the year 2005. Coupled with the projection that VOC emissions will be below the level existing at the time of the redesignation request, EPA concludes that there is an adequate technical basis in the plan to demonstrate that the ozone standard will be maintained.

EPA also notes that historically VOC control has been successful in bringing the Kansas City area into attainment of the ozone standard, which is another basis for the conclusion that maintenance of both VOC and NO_x emissions levels will result in continued attainment.

For the foregoing reasons, EPA does not agree that photochemical grid modeling is legally required or technically necessary to show maintenance of the standard. The methodology used by the state to demonstrate continued maintenance of the standard is adequate to meet the requirements of section 175A.

Comment: Phillips argues that due to the lack of a "quantitative analysis" through urban grid modeling, there is no basis for establishing the "margin of safety" included in the plan.

Response: The comment assumes that photochemical grid modeling is necessary to demonstrate maintenance of the ozone standard. As discussed above, EPA believes that the demonstration included in the maintenance plan is adequate in the absence of such modeling.

The need for a margin of safety is clearly demonstrated in the Kansas City maintenance plan. That margin, provided primarily through the delivery of gasoline with a Reid Vapor Pressure (RVP) limit of 7.8 psi, is essential due to the marginal nature of ozone attainment in the area. Since 1990, exceedances of the ozone standard have occurred when RVP levels were between 8.5 and 9.0 psi. There were two exceedances of the standard in 1990 and two in 1991. Because these exceedances did not occur at the same monitor site, they did not constitute violations of the NAAQS. However, these exceedances do indicate that the standard will likely be jeopardized without further control measures. RVP control is the only measure that can provide immediate VOC reduction and the desired margin of safety during the next several ozone

seasons, since other control measures, as discussed below, require a much longer implementation period.

Section 211(h)(2) of the CAA allows EPA to impose an RVP requirement "lower than 9.0 psi in any area, formerly an ozone nonattainment area, which has been redesignated an attainment area." EPA discusses this authority in the context of areas newly redesignated to attainment in its federal fuel volatility regulations (56 FR 64704, December 12, 1991). In that rulemaking, EPA provided that an area which is redesignated to attainment must remain subject to the 7.8 psi RVP requirement unless it shows through a maintenance plan demonstration that it is no longer needed (56 FR at 64706). In the latter case, EPA could raise the volatility level to 9.0 psi. The Kansas City maintenance plan does not support such a change and, in fact, relies on the lower limit of 7.8 psi to maintain the standard. Only if the state had been able to implement other control measures with equivalent emission reductions to ensure maintenance of the standard would EPA have the option of relaxing the Phase II volatility controls.

EPA believes that the margin of safety is based on a demonstrated need. EPA also believes the plan fully supports the continued enforcement of Phase II volatility levels.

Comment: The plan does not account for the effects of more stringent motor vehicle emission standards mandated by the CAA, as amended, and revisions to EPA's MOBILE model. These effects are significant to the determination of the type and extent of control needed to maintain attainment.

Response: At the time Missouri and Kansas developed their maintenance plans, the applicable version of EPA's mobile source emissions model was MOBILE4.0. Since that time, MOBILE4.1 has become available. MOBILE4.1 was used by EPA prior to the proposed approval of the maintenance plan to determine what effect, if any, the new model would have on the demonstration of continued attainment of the ozone standard. For any given year, MOBILE4.1 predicted lower VOC emissions than MOBILE4.0; however, the level of VOC emissions necessary to maintain the ozone standard is also reduced correspondingly. Thus, the net effect on the margin of safety is insignificant.

EPA also notes that the new tailpipe standards will not become effective until 1994. Because these standards apply only to new vehicles, it will take several years for the emission reductions to occur as new vehicles are added to the total vehicle population. For these reasons, the new tailpipe standards are not adequate to demonstrate near-term maintenance of the standard. When the state submits its revised maintenance plan (which is required in eight years), the effect of the new tailpipe standards, as well as other changes in emission inventory methodology, will be considered. Prior to that time, the tailpipe emission standards are not sufficient to demonstrate maintenance of the ozone standard.

Comment: The plan places the burden for future growth in the Kansas City area entirely on the petroleum industry. A mix of cost effective measures, including enhanced inspection and maintenance (I/M) for motor vehicles, should be identified to accommodate future growth.

Response: EPA believes that the states properly considered an appropriate range of measures and their cost effectiveness. EPA believes that the state's selection of RVP controls demonstrate maintenance of the ozone standard in Kansas City.

The maintenance plan submitted by the state includes an analysis of the cost effectiveness of various control measures, including an I/M program, Stage II vapor recovery, and additional RACT controls on minor sources, in addition to gasoline volatility controls. This information shows that RVP control is the most cost-effective measure per ton of VOC controlled. Information submitted by the Missouri Department of Natural Resources (MDNR) during the comment period states that the RVP restriction costs approximately $500 per ton of emissions controlled, an amount half as expensive as the next most cost effective strategy for the area (Stage II). MDNR comments that reductions may be possible by requiring both Stage II vapor recovery and I/M, but MDNR's analysis indicates that the cost would be higher per ton of VOC controlled for these measures. Stage II would also be a cost borne primarily by the petroleum industry. MDNR also comments that the amount of VOC emissions controlled by the RVP program is second only to RACT—if RACT is imposed on smaller, 25 tons/year sources—but that the cost of RACT is also greater. In addition, the state concluded that I/M, Stage II, and RACT would take time to implement due to the legislative and administrative lead times required, whereas RVP control is already in place. RVP reduction is the only measure that achieves immediate VOC reductions. Finally, RVP control and costs are incurred only during the ozone season, and thus are not annual costs as are the other measures.

EPA also rejects Phillips' argument that the petroleum industry is bearing the burden for future growth. EPA notes that the states have adopted many regulations over the years in an effort to attain and maintain the ozone standard. These have included RACT regulations for all of the major stationary sources in the area. Furthermore, the Federal Motor Vehicle Emission Standards have also been, and will continue to be, effective in lowering VOC emissions. EPA believes the states have, in fact, adopted and implemented, in conjunction with EPA, a wide range of measures to address the ozone problem. Ultimately, the CAA places the responsibility on the states to select the appropriate control strategy necessary to attain and maintain the NAAQS.

Although EPA has determined that the states' selection of RVP is appropriate, this selection should not be considered as setting a precedent for other areas requesting redesignation to attainment. Each area should consider the cost effectiveness and feasibility of appropriate measures when developing the required maintenance plans for areas within the state.

For the foregoing reasons, and for the additional reasons stated in EPA's proposed approval at 57 FR 1705, January 15, 1992, EPA has determined that the Kansas City maintenance plan meets the requirements of section 175A.

EPA ACTION: In today's notice EPA is approving revisions to the Kansas SIP. This includes approving the Kansas City ozone maintenance plan, because it meets the requirements of section 175A of the Act, and approving the RACT rule submittals as meeting the RACT requirements of the Act. In addition, EPA is approving the redesignation request for the Kansas City area because the state has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation, as discussed in detail in the above referenced proposed rulemaking.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 29, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not

be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: May 12, 1992.

William K. Reilly,

Administrator.

40 CFR part 52, subpart R is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 is revised to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart R—Kansas

2. Section 52.870 is amended by adding paragraph (c)(26) to read as follows:

§ 52.870 Identification of plan.

* * * * *

(c) * * *

(26) Revisions to the state implementation plan for the Kansas City metropolitan area were submitted by the Governor on October 23, 1991. Revisions include a maintenance plan which demonstrates continued attainment of the NAAQS for ozone through the year 2002. Rule revisions were also submitted on October 23, 1991.

(i) Incorporation by reference.

(A) Article 19—Ambient Air Quality Standards and Air Pollution Control, revised Kansas Administrative Regulations (K.A.R.) 28–19–61, Definitions, and K.A.R. 28–19–62, Testing procedures; and new rules K.A.R. 28–19–76, Lithography printing facilities, and K.A.R. 28–19–77, Chemical processing facilities that operate alcohol plants or liquid detergent plants. These rules were published August 22, 1991, and became effective October 7, 1991.

(ii) Additional material

(A) State of Kansas Implementation Plan, Kansas City Metropolitan Area Maintenance Provisions, October 1991.

3. Section 52.873 is amended by designating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 52.873 Approval status.

* * * * *

(b) The Kansas portion of the Kansas City metropolitan area was designated as nonattainment for ozone in 40 CFR part 81. Therefore, the Administrator approves continuation of the 7.8 RVP limit as federally enforceable in the Kansas City metropolitan area, even after the area is redesignated to attainment, because of its nonattainment designation effective January 6, 1992. Also, the requirement for 7.8 psi RVP volatility is deemed necessary to ensure attainment and maintenance of the ozone standard as demonstrated by the emissions inventory projections (based on use of 7.8 psi RVP) in Kansas' ozone maintenance plan for the Kansas City metropolitan area.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 is revised to read as follows:

Authority: 42 U.S.C. 7407, 7501–7515, 7601.

2. In § 81.317 the designation table for ozone is amended by revising the entries for Johnson and Wyandotte Counties to read as follows:

§ 81.317 Kansas.

* * * * *

KANSAS—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Kansas City Area:				
Johnson County	July 23, 1992	Unclassifiable/Attainment		
Wyandotte County	July 23, 1992	Unclassifiable/Attainment		

* * * * *

[1] This date if November 15, 1990, unless otherwise noted.

[FR Doc. 92–14594 Filed 6–22–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 52 and 81

[Mo8–1–5440; FRL–4140–7]

Approval and Promulgation of Implementation Plans; and Designation of Areas for Air Quality Planning Purposes; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In today's notice EPA is taking final action to approve revisions to the Missouri State Implementation Plan (SIP). The revision includes the Missouri ozone maintenance plan for the Kansas City area and related Missouri rule revisions. EPA is also approving the state's request to redesignate Clay, Platte, and Jackson Counties, Missouri, to attainment with respect to the ozone National Ambient Air Quality Standard (NAAQS). In a separate **Federal Register** notice published today, EPA is taking a concurrent final action regarding the Kansas maintenance plan and redesignation request for the Kansas portions of the Kansas City nonattainment area.

EFFECTIVE DATE: This rule will become effective on July 23, 1992.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at: the Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; the Missouri Department of Natural Resources, Air Pollution Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101; and the Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Larry A. Hacker at (913) 551–7602 (FTS 276–7602).

SUPPLEMENTARY INFORMATION:

I. Background

Three years of quality assured ambient air quality data, for the period 1989 through 1991, indicate that the Kansas City ozone nonattainment area has attained the NAAQS for ozone. Therefore, in accordance with the Clean Air Act (CAA), and to ensure continued attainment of the standard with an

adequate margin of safety, the state of Missouri has submitted an ozone maintenance plan which projects continued attainment of the ozone standard in the Kansas City area.

Both the Missouri and Kansas plans meet all the applicable requirements of the CAA. The Missouri submittal complies with section 175A of the Act which sets forth maintenance plan requirements for areas seeking redesignation from nonattainment to attainment. The state's demonstration of continued attainment relies in part on EPA's Phase II gasoline volatility requirements. The plan demonstrates continued attainment of the applicable NAAQS for at least ten years after the area is redesignated. Eight years after the redesignation, the state commits to submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. And, in the event of future NAAQS violations, the maintenance plan contains contingency measures adequate to ensure prompt correction of the air quality problem.

Accompanying the maintenance plan are new state rules which control certain categories of sources which emit volatile organic compounds (VOC) emissions.

Finally, the state submittal also includes a redesignation request in which the state demonstrates that the area has fulfilled the redesignation requirements of the amended Act pursuant to section 107(d)(3)(e).

On January 15, 1992, in the **Federal Register** (57 FR 1705), EPA proposed to approve the state's maintenance plan and Reasonably Available Control Technology (RACT) rules, and to promulgate the redesignation. (In a separate notice published the same day, EPA proposed to approve an analogous maintenance plan and redesignation request submitted by the state of Kansas.) The reader should consult EPA's proposed rulemaking and technical support document for a detailed discussion of the state's submission, the relevant requirements of the Act, and EPA's proposed action.

II. Response to Comments

EPA received 71 letters commenting on the proposed rulemaking. All commenters supported the proposed action except one (Phillips Petroleumartlesville, Oklahoma). Phillips requested that EPA disapprove the maintenance plan based on four arguments. Phillips' comments consist of three technical issues concerning the demonstration included by Kansas and Missouri to show that the area would continue to maintain the ozone standard, and one policy issue concerning the appropriate mix of controls necessary to maintain the standard. A summary of Phillips' comments, and EPA's response to them, follow.

Comment: Phillips alleges that the methodology that Missouri used in plan development is unable to quantitatively determine the types of ozone precursor control needed and the extent to which precursor emissions reductions (including NO_x) may be required to maintain the ozone standard. Phillips alleges that EPA should require urban grid-based air quality modeling.

Response: In the 1990 Amendments to the Act, Congress specifically added section 175A which specifies the requirements for maintenance plans. There is no requirement in section 175A, or in other applicable provisions of the Act, for photochemical grid modeling to demonstrate maintenance of the ozone standard in areas like Kansas City, which have attained the standard. Such modeling is only required for certain areas which have not attained the standard. The requirement for such modeling applies to those areas with the more serious or complex ozone nonattainment problems (e.g., section 182(c)(2)(A), which requires modeling for areas classified as "serious"). EPA believes the lack of such a requirement for maintenance plans was intended to give EPA and the states flexibility in demonstrating maintenance of the standard. Accordingly, for maintenance demonstrations, EPA believes that states may make the demonstration through one of two alternatives: (1) A demonstration that the future emission inventory will not exceed the inventory that existed at the time of the request for redesignation, or (2) an appropriate modeling analysis which shows that the future mix of sources and emission rates, when combined with the control strategy for the area, will not cause any violations of the ambient standards. Of these two choices, the state elected to base its maintenance demonstration on the emission inventory analysis. EPA believes that the projection and analysis of future emissions meet the requirements of section 175A, and that the state's emission inventory methodology is consistent with EPA guidance, as discussed in the proposed rulemaking.

Phillips also suggested that NO_x emissions should be examined using the photochemical grid model because an increase in NO_x emissions could result in violations of the ozone standard without an increase in VOC emissions. EPA agrees that violations caused by increased NO_x emissions are theoretically possible, although the exact relationship between NO_x emissions and the formation of ozone is not certain. However, in the case of the Kansas City maintenance plan, EPA performed an analysis of projected NO_x emissions for the metropolitan area. EPA's analysis showed no increase in NO_x emissions through the year 2005. Coupled with the projection that VOC emissions will be below the level existing at the time of the redesignation request, EPA concludes that there is an adequate technical basis in the plan to demonstrate that the ozone standard will be maintained.

EPA also notes that historically VOC control has been successful in bringing the Kansas City area into attainment of the ozone standard, which is another basis for the conclusion that maintenance of both VOC and NO_x emissions levels will result in continued attainment.

For the foregoing reasons, EPA does not agree that photochemical grid modeling is legally required or technically necessary to show maintenance of the standard. The methodology used by the state to demonstrate continued maintenance of the standard is adequate to meet the requirements of section 175A.

Comment: Phillips argues that due to the lack of a "quantitative analysis" through urban grid modeling, there is no basis for establishing the "margin of safety" included in the plan.

Response: The comment assumes that photochemical grid modeling is necessary to demonstrate maintenance of the ozone standard. As discussed above, EPA believes that the demonstration included in the maintenance plan is adequate in the absence of such modeling.

The need for a margin of safety is clearly demonstrated in the Kansas City maintenance plan. That margin, provided primarily through the delivery of gasoline with a Reid Vapor Pressure (RVP) limit of 7.8 psi, is essential due to the marginal nature of ozone attainment in the area. Since 1990, exceedances of the ozone standard have occurred when RVP levels were between 8.5 and 9.0 psi. There were two exceedances of the standard in 1990 and two in 1991. Because these exceedances did not occur at the same monitor site, they did not constitute violations of the NAAQS. However, these exceedances do indicate that the standard will likely be jeopardized without further control measures. RVP control is the only measure that can provide immediate VOC reduction and the desired margin of safety during the next several ozone

seasons, since other control measures, as discussed below, require a much longer implementation period.

Section 211(h)(2) of the CAA allows EPA to impose an RVP requirement "lower than 9.0 psi in any area, formerly an ozone nonattainment area, which has been redesignated an attainment area." EPA discusses this authority in the context of areas newly redesignated to attainment in its federal fuel volatility regulations (56 FR 64704, December 12, 1991). In that rulemaking, EPA provided that an area which is redesignated to attainment must remain subject to the 7.8 psi RVP unless it shows through a maintenance plan demonstration that it is no longer needed (56 FR 64706). In the latter case, EPA could raise the volatility level to 9.0 psi. The Kansas City maintenance plan does not support such a change and, in fact, relies on the lower limit of 7.8 psi to maintain the standard. Only if the state had been able to implement other control measures with equivalent emission reductions to ensure maintenance of the standard would EPA have the option of relaxing the Phase II volatility controls.

EPA believes that the margin of safety is based on a demonstrated need. EPA also believes the plan fully supports the continued enforcement of Phase II volatility levels.

Comment: The plan does not account for the effects of more stringent motor vehicle emission standards mandated by the CAA and revisions to EPA's MOBILE model. These effects are significant to the determination of the type and extent of control needed to maintain attainment.

Response: At the time Missouri and Kansas developed their maintenance plans, the applicable version of EPA's mobile source emissions model was MOBILE4.0. Since that time, MOBILE4.1 has become available. MOBILE4.1 was used by EPA prior to the proposed approval of the maintenance plan to determine what effect, if any, that the new model would have on the demonstration of continued attainment of the ozone standard. For any given year, MOBILE4.1 predicted lower VOC emissions than MOBILE4.0; however, the level of VOC emissions necessary to maintain the ozone standard is also reduced correspondingly. Thus, the net effect on the margin of safety is insignificant.

EPA also notes that the new tailpipe standards will not become effective until 1994. Because these standards apply only to new vehicles, it will take several years for the emission reductions to occur as new vehicles are added to the total vehicle population. For these reasons, the new tailpipe standards are not adequate to demonstrate near-term maintenance of the standard. When the state submits its revised maintenance plan (which is required in eight years), the effect of the new tailpipe standards, as well as other changes in emission inventory methodology, will be considered. Prior to that time, the tailpipe emission standards are not sufficient to demonstrate maintenance of the ozone standard.

Comment: The plan places the burden for future growth in the Kansas City area entirely on the petroleum industry. A mix of cost effective measures, including enhanced inspection and maintenance (I/M) for motor vehicles, should be identified to accommodate future growth.

Response: EPA believes that the states properly considered an appropriate range of measures and their cost effectiveness. EPA believes that the states' selection of RVP controls demonstrate maintenance of the ozone standard in Kansas City. The maintenance plan submitted by the state includes an analysis of the cost effectiveness of various control measures, including an I/M program, Stage II vapor recovery, and additional RACT controls on minor sources, in addition to gasoline volatility controls. This information shows that RVP control is the most cost-effective measure per ton of VOC controlled. Information submitted by the Missouri Department of Natural Resources (MDNR) during the comment period states that the RVP restriction costs approximately $500 per ton of emissions controlled, an amount half as expensive as the next most cost effective strategy for the area (Stage II). MDNR comments that reductions may be possible by requiring both Stage II vapor recovery and I/M, but MDNR's analysis indicates that the cost would be higher per ton of VOC controlled for these measures. Stage II would also be a cost borne primarily by the petroleum industry. MDNR also comments that the amount of VOC emissions controlled by the RVP program is second only to RACT—if imposed on smaller, 25 tons/year sources—but that the cost of RACT is also greater. In addition, the state concluded that I/M, Stage II, and RACT would take time to implement due to the legislative and administrative lead times required, whereas RVP control is already in place. RVP reduction is the only measure that achieves immediate VOC reductions. Finally, RVP control and costs are incurred only during the ozone season, and thus are not annual costs as are the other measures.

EPA also rejects Phillips' argument that the petroleum industry is bearing the burden for future growth. EPA notes that the states have adopted many regulations over the years in an effort to attain and maintain the ozone standard. These have included RACT regulations for all of the major stationary sources in the area. Furthermore, the Federal Motor Vehicle Emission Standards have also been, and will continue to be, effective in lowering VOC emissions. EPA believes the states have, in fact, adopted and implemented, in conjunction with EPA, a wide range of measures to address the ozone problem. Ultimately, the CAA places the responsibility on the states to select the appropriate control strategy necessary to attain and maintain the NAAQS.

Although EPA has determined that the states' selection of RVP is appropriate, this selection should not be considered as setting a precedent for other areas requesting redesignation to attainment. Each area should consider the cost effectiveness and feasibility of appropriate measures when developing the required maintenance plans for areas within the state.

For the foregoing reasons, and for the additional reasons stated in EPA's proposed approval at 57 FR 1705, January 15, 1992, EPA has determined that the Kansas City maintenance plan meets the requirements of section 175A.

EPA ACTION: In today's notice EPA is approving revisions to the Missouri SIP. This includes approving the Kansas City ozone maintenance plan, because it meets the requirements of section 175A of the Act, and approving the RACT rule submittals as meeting the RACT requirements of the Act. In addition, EPA is approving the redesignation request for the Kansas City area because the state has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation, as discussed in detail in the above referenced proposed rulemaking.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 24, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not

be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: May 12, 1992.

William K. Reilly,

Administrator.

40 CFR part 52, subpart AA is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 is revised to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(77) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(77) Revisions to the state implementation plan for the Kansas City metropolitan area were submitted by the Director of the Missouri Department of Natural Resources on October 9, 1991. Revisions include a maintenance plan which demonstrates continued attainment of the NAAQS for ozone through the year 2002. Rule revisions were also submitted on October 9, 1991.

(i) Incorporation by reference.

(A) Revised regulations 10 CSR 10–6.020, Definitions, and 10 CSR 10–2.220, Liquefied Cutback Asphalt Paving Restricted, effective August 30, 1991; and new regulation 10 CSR 10–2.340, Control of Emissions from Lithographic Printing Facilities, effective December 9, 1991.

(ii) Additional material.

(A) State of Missouri Implementation Plan, Kansas City Metropolitan Area Maintenance Provisions, October 1991.

* * * * *

3. Section 52.1323 is amended by adding paragraph (h) to read as follows:

§ 52.1323 Approval Status.

* * * * *

(h) The Missouri portion of the Kansas City metropolitan area was designated as nonattainment for ozone in 40 CFR part 81. Therefore, the Administrator approves continuation of the 7.8 RVP limit as federally enforceable in the Kansas City metropolitan area, even after the area is redesignated to attainment, because of its nonattainment designation effective January 6, 1992. Also, the requirement for 7.8 psi RVP volatility is deemed necessary to ensure attainment and maintenance of the ozone standard as demonstrated by the emissions inventory projections (based on use of 7.8 psi RVP) in Missouri's ozone maintenance plan for the Kansas City metropolitan area.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 is revised to read as follows:

Authority: 42 U.S.C. 7407, 7501–7515, 7601.

2. In § 81.326 the designation table for ozone is amended by revising the entries for Clay, Jackson, and Platte Counties to read as follows:

§ 81.326 Missouri.

* * * * *

Missouri-Ozone

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Kansas City Area				
Clay County	July 23, 1992	Unclassifiable/Attainment		
Jackson County	July 23, 1992	Unclassifiable/Attainment		
Platte County	July 23, 1992	Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 92–14593 Filed 6–22–92; 8:45 am]

BILLING CODE 6560–51–M

40 CFR Part 271

[FRL–4146–4]

South Carolina; Schedule of Compliance for Modification of South Carolina's Hazardous Waste Program

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of South Carolina's Compliance Schedule to adopt program modifications.

SUMMARY: On September 22, 1986, EPA promulgated amendments to the deadlines for State program modifications and published requirements for States to be placed on a compliance schedule to adopt the necessary program modifications. EPA is today publishing a compliance schedule for South Carolina to modify its program in accordance with § 271.21(g) to adopt the Federal program modifications.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

SUPPLEMENTARY INFORMATION:

A. Background

Final authorization to implement the Federal hazardous waste program within the State is granted by EPA if the Agency finds that the State program (1) is "equivalent" to the Federal Program, (2) is "consistent" with the Federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b), 42 U.S.C. 6226(b)). EPA regulations for final authorization appear in 40 CFR 271.1–271.24. In order to retain authorization, a State must revise its program to adopt new Federal requirements by the Cluster deadlines specified in 40 CFR 271.21. See 51 FR 33712, September 22, 1986, for a complete discussion of these procedures and deadlines.

B. South Carolina

South Carolina received final authorization of its hazardous waste program on November 22, 1985. (Federal Register.) 46437, November 8, 1985, Vol. 50, No. 217,

Today EPA is publishing a compliance schedule for South Carolina to obtain

program revisions for the following Federal program requirements:

• Modifications in the Federal Program for Non-HSWA Cluster VI which include:

Delay of Closure Period for Hazardous Waste Facilities, 54 FR 33376,

Mining Waste Exclusion I, 54 FR 36592,

Testing & Monitoring Activities, 54 FR 40260,

Various FR Listings Changes to Part 124 Not Accounted for by Present Checklists,

Mining Waste Exclusion II, 55 FR 2322,

Modifications of F019 Listing, 55 FR 5340,

Testing & Monitoring Activities; Technical Corrections, 55 FR 8948,

Criteria for Listing Toxic Wastes; Technical Amendment, 55 FR 18726,

Financial Responsibility: Settlement Agreement Correction, 55 FR 25976.

• Modifications in the Federal program for HSWA Cluster II include:

California List Waste Restrictions, 52 FR 25760,

Exception Reporting for SQGs, 52 FR 35894,

California List Waste Restrictions; Technical Corrections SW 846, 52 FR 41295,

HSWA Codification Rule 2, 52 FR 45788,

Identification & Listing of Hazardous Waste; Technical Correction, 53 FR 27162,

Farmer Exemptions; Technical Correction, 53 FR 27164,

Land Disposal Restrictions for First Third Scheduled Wastes, 53 FR 31138,

Hazardous Waste Management System; Standards for Hazardous Waste Storage & Treatment Tank Systems, 53 FR 34079,

Land Disposal Restrictions, 54 FR 8264,

Land Disposal Restriction Amendments to First Third Scheduled Wastes, 54 FR 18836,

Land Disposal Restrictions for Second Third Scheduled Wastes, 54 FR 26594,

Land Disposal Restrictions; Correction to the First Third Scheduled Wastes, 54 FR 36967,

Reportable Quantity Adjustment Methyl Bromide Production Wastes, 54 FR 41402,

Reportable Quantity Adjustment, 54 FR 50968,

Listing of 1,1-Dimethylhydrazine Production Wastes, 55 FR 18496,

HSWA Codification Rule, Double Liners; Correction, 55 FR 19262,

Land Disposal Restrictions for Third Scheduled Wastes, 55 FR 22520,

Land Disposal Restrictions; Correction, 55 FR 23935,

Hazardous Waste Treatment, Storage, and Disposal Facilities—Organic Air Emission Standards for Process Vents and Equipment Leaks, 55 FR 25454,

Toxicity Characteristics Revisions; Correction, 55 FR 26986.

The State has agreed to seek the needed program modifications according to the following schedule:

Notice of intent to draft regulations published in the State Register—March 27, 1992,

Revisions published in the State Register for public comments—August 28, 1992,

Public comment period ends—September 30, 1992,

Completion of preparation of final regulations—November 1, 1992,

Final regulations presented to the Board—November 12, 1992,

Notice published approving regulations in the State Register—December 25, 1992,

Submission of Final Program Revision Application for Non-HSWA Cluster VI and HSWA Cluster II—March 1, 1993.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926 and 6974(B).

Dated: May 8, 1992.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 92-14749 Filed 6-22-92; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1080

Emergency Community Services Homeless Grant Program

AGENCY: Administration for Children and Families (ACF), HHS. Office of Community Services.

ACTION: Final rule with comment period.

SUMMARY: The Office of Community Services (OCS) is issuing final regulations with a comment period to accommodate changes relating to the eligible uses of funds and application procedures for the Emergency Community Services Homeless Grant Program (EHP) which were added by the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, Public Law 101-645. The conforming regulations amend procedures that States, territories, Indian tribes, and other organizations must follow to apply for and use the funds appropriated for this program. Additionally, the regulations specify changes in the eligible use of funds awarded under the auspices of this program. The changes allow for a State applicant agency to use up to five (5) percent of its funds received to defray State administrative costs. Additionally, the amendments provide that not more than fifty (50) percent of the funds may be used for the purpose of renovation of buildings used for providing services to the homeless. Further, awarded funds may be used for the provision of, or referral to, violence counseling for homeless children and individuals, and for associated training of individuals working with this homeless population. Corresponding to the statutory changes, the regulations also delete the requirement that ninety (90) percent of a State's grant be awarded to specified agencies and organizations that, as of January 1, 1987, were providing assistance to meet the critically urgent needs of homeless individuals.

DATES: This final rule is effective June 23, 1992. The statutory changes being implemented were effective October 1, 1991. We will consider comments to this final rule submitted on or before August 21, 1992.

ADDRESS: Address comments to: Joseph R. Carroll, Office of Community Services, ACF, Mail Stop: OCS/IOD, 370 L'Enfant Promenade, SW., Washington, DC 20447.

Comments will be available for public inspection Monday through Friday, exclusive of Federal holidays, 8:30 a.m. to 5 p.m., at the Department's offices at the above address.

FOR FURTHER INFORMATION CONTACT: Joseph R. Carroll, (202) 401-9354 and Sheldon Shalit, (202) 401-4807.

SUPPLEMENTARY INFORMATION:

Background

The Stewart B. McKinney Homeless Assistance Act, Public Law 100-77 (July 22, 1987), established a number of programs to assist homeless persons, including the Emergency Community Services Homeless Grant Program (EHP) (Title VII, Subtitle D, sec. 751-754 and 762 of Pub. L. 100-77) (42 U.S.C. 11461-11464 and 11472). Additional EHP amendments were enacted by title VII, subtitle A, section 704 of Public Law 101-628 (November 7, 1988). The McKinney Act has since been amended by Pub. L. 101-645 with respect to eligible uses of the EHP funds (Title VII, subtitle D, sec. 753 of Pub. L. 101-645 (November 29, 1990)). The EHP program

is operated by the Office of Community Services (OCS) within the Administration for Children and Families (ACF) of the Department of Health and Human Services (HHS). The McKinney Act provides that the funds appropriated for the EHP program are to be distributed to States that receive funds under the Community Services Block Grant (CSBG) program (42 U.S.C. 9901 et seq.), using the allocation formula that applies to the CSBG program. In addition, the Act sets aside EHP funds to be awarded directly to certain Indian tribes.

These regulations specify several changes relating to the use of program funds. First, the Act provides that up to five (5) percent of the monies allocated to the States and territories may be retained by the State agency to defray administrative costs. Second, the Act provides for two additional eligible uses for the funds: (1) Up to fifty (50) percent of the amounts awarded under the program may be used for renovation of buildings used to provide comprehensive services to homeless individuals; and (2) funds may be used for the provision of, or referral to, violence counseling for homeless children and individuals and the provision of violence counseling training to persons working with homeless children and individuals. Further, the Act, as amended, deletes the current requirement that a State award not less than ninety (90) percent of grant funds to certain homeless service organizations providing assistance as of January 1, 1987. These regulations apply to funds appropriated for fiscal years 1992 and thereafter.

Certain conforming changes also implement related statutory provisions. Since the McKinney amendments now authorize the use of grant funds for renovation projects, section 106 of the National Historic Preservation Act, Pub. L. 89–665 (October 15, 1966), 16 U.S.C. 470f, requires certain procedures to take into account the effect of any project on a building that is included on, or eligible for inclusion on, the National Register of Historic Places. See 36 CFR part 800—Protection of Historic and Cultural Properties. Also, section 836 of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101–625 (November 28, 1990), effective October 1, 1991, amended section 401 of the McKinney Act, 42 U.S.C. 11361, to replace the reference to the "comprehensive homeless assistance plan" with the "comprehensive housing affordability strategy." Under the transitional provisions of that section, both phrases may be in use at the same time. These final regulations therefore reflect the alternative nomenclature.

Justification for Dispensing With Notice of Proposed Rulemaking

The Administrative Procedure Act (APA) creates an exception to general notice and comment rulemaking procedures where the agency for good cause finds that those procedures are impracticable, unnecessary, or contrary to the public interest. This final rule with a comment period implements statutory changes to the EHP program contained in the Stewart B. McKinney Homeless Assistance Amendments of 1990, Public Law 101–645, which was enacted into law on November 29, 1990. The corresponding changes to the regulations permit a wider latitude of action on the part of State and local participating programs. The additional services related to violence counseling and the use of funds for renovation are optional uses of funds under the law. Since we have incorporated the statutory amendments without interpretation in section 1080.4, we find that Notice of Proposed Rulemaking as to these new regulatory requirements is unnecessary. Section 1080.4 includes a reference to the existing law on historic preservation. We have also made minor changes to the application procedures and reporting requirements described in §§ 1080.5 and 1080.8 respectively in order to ensure consistency with the new amendments and related provisions governing the impact of federally funded renovation projects on historic buildings and dealing with the coordination of housing strategies. Section 1080.6 has been revised to reflect redesignated cross-references. These changes are technical and conforming in nature. Accordingly, we find good cause for dispensing with Notice of Proposed Rulemaking as to these changes as well.

Summary of Regulatory Changes

Section 1080.4 Eligible Use of Funds

This section, specifies the eligible use of funds, as amended by the legislation, to include the following:

(b) Renovation of buildings to be used to provide such services, except that not more than 50 percent of such amounts may be used for such purpose, and provided that all procedures required under the National Historic Preservation Act are followed;

(f) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals; and,

(g) Not more than 5 percent of the amount received will be used to defray State administrative costs.

Paragraph (b) specifies that not more than 50% of the amount awarded to the State may be used for renovation of buildings used to provide comprehensive services to the homeless. This provision allows the recipient State to limit each of its subgrantees to a maximum of 50% of their respective awards to be used for this purpose. Alternatively, the State may permit individual subgrantees to exceed the maximum provided that no more than 50 percent of the State's total award is used for renovation. This will allow the State flexibility in applying the 50 percent limitation. States must describe the use of these funds through the submission of a renovation plan statement that is attached to their initial request for their State allocation. The paragraph also requires compliance with the National Historic Preservation Act.

Paragraph (f) allows for the costs associated with either providing direct care associated with the referral to or provision of services known generally as violence counseling.

It has been widely demonstrated and accepted that one of the major causes or symptoms related to homelessness and the disruption of the family is the prevalence of domestic violence. This program use directly responds to that need and ensures that the victims and potentially the perpetrators may receive counseling that will ameliorate the effects of this disruptive and destructive action. In addition to referral or provision of actual counseling, funds may be used to train staff to identify and otherwise deal with the effects of domestic violence. This training need not be restricted to formal direct care givers, but may be provided to a range of employees, including support staff and indirect care givers. This training will increase the likelihood that victims of domestic violence will be more readily identified and be referred sooner to counseling and supportive services.

Paragraph (g) specifies that a State may use up to 5 percent of the total amount awarded to the State for the purposes of defraying the State administrative costs in implementing, operating and overseeing the program.

Section 1080.5 Application Procedures for States

This section specifies the procedures which States must follow in order to receive the allocation of program funds. In addition to the grant application, the State must provide the assurances specified by regulation. The statutory

amendments deleted section 753(b)(1)(B) of the Act (42 U.S.C. 11463(b)(1)(B)) which required not less than ninety (90) percent of a State's grant be awarded to existing homeless service organizations. Accordingly, the corresponding paragraph (b)(2) in the regulations is removed, and paragraphs (b)(3) through (b)(7) are redesignated as paragraphs (b)(2) through (b)(6) respectively. The amendment to the Act permitting use of not more than five (5) percent of the funds to defray State administrative costs requires corresponding changes to the assurances in paragraph (b)(1) and redesignated paragraph (b)(3). Redesignated paragraph (b)(5) is amended to cross-reference redesignated § 1080.4(e). Redesignated paragraph (b)(6) is amended to cross-reference the Comprehensive Housing Affordability Strategy. New paragraph (b)(7) is added to implement requirements relating to the preservation of historic buildings.

Section 1080.6 Funding to Alternative Organizations

This section specifies procedures for funding alternative organizations in the event a State did not participate in the program. Paragraph (a) is amended to delete a cross-reference to removed § 1080.5(b)(2). The first sentence in paragraph (c) is amended to cross-reference redesignated §§ 1080.5(b)(2), (3), (5), (6), and new section (7).

Section 1080.8 Reporting Requirements

This section specifies the State's reporting requirements. Existing text has been subdivided and restated as an initial sentence followed by paragraph (a). This section has been amended further by adding paragraphs (b) and (c) to include items of information relative to the changes in the law. These additions include describing activities related to expenditures for renovation, including the effects of such activities on historic properties; reporting on services and/or training for domestic violence; and, reporting on the use of administrative funds.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules, which are defined in the Order as any rule that has an annual effect on the economy of $100 million or more or has certain other specified effects. The Department has determined that these regulations are not major rules within the meaning of the Executive Order because they will not have an effect on the economy of $100 million or more, or otherwise meet the threshold criteria.

Regulatory Flexibility Act of 1980

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), that these rules will not have a significant impact on a substantial number of small entities. The impact of these regulations is primarily on States, which are not considered small entities under the Act.

Paperwork Reduction Act

Sections 1080.5 and 1080.8 contain new application and information collection requirements which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, Public Law 96–511, 94 Stat. 2812 (December 11, 1980), 44 U.S.C. 3501–3520. The referenced sections require recipients to include in their applications and annual reports additional items of information relating to changes in the McKinney Act. These additions include reporting on the use of administrative funds and the description of activities related to expenditures for renovation and for services and/or training for violence counseling. This data is necessary to ensure adherence to the statutory cap on State administrative costs and to enable the Department to fulfill its obligation under section 203(c) of the McKinney Act to report to Congress and the Interagency Council on the Homeless on the implementation and effectiveness of the programs funded by the Act.

On October 21, 1991, the Office of Management and Budget (OMB) approved an extension of existing application and reporting requirements, as modified, for use through September 30, 1994. The approved collection has been assigned OMB Control No. 0970–0088.

Description of Respondents: State Agencies and federally-recognized Indian Tribes.

Estimated Annual Reporting and Recordkeeping Burden

Section	Annual number of respondents	Annual frequency	Average burden per response	Annual burden hours
45 CFR 1080.5				
Existing	57	1	83.16	4740
Proposed	57	1	83.16	4740
45 CFR 1080.8				
Existing	132	1	30.64	4044
Proposed	132	1	30.64	4044

Total Existing Burden Hours: 8784
Total Proposed Burden Hours: 8784
Total Difference: 0

Other organizations and individuals desiring to submit comments regarding this burden estimate or any aspect of the information collection requirements, or estimated reporting burden, should direct them to the Administration for Children and Families, Office of Community Services, (address above) and to the Office of Information and Regulatory Affairs, OMB, room 3208, New Executive Office Building, Washington, DC 20503; Attention: Laura Oliven, Desk Officer for ACF.

List of Subjects in 45 CFR Part 1080

Administrative practices and procedures, Community action programs, Grant programs-social, Homeless assistance (Catalog of Federal Domestic Assistance Programs 93.034, Emergency Community Services for the Homeless).

Dated: February 5, 1992.

Jo Anne B. Barnhart,

Assistant Secretary for Children and Families.

Dated: March 23, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

For the reasons set forth in the preamble, 45 CFR Ch. X is amended as follows:

1. The heading of Ch. X is revised to read as follows:

CHAPTER X—OFFICE OF COMMUNITY SERVICES, ADMINISTRATION FOR CHILDREN AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES

PART 1080—EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM

1a. The authority citation for part 1080 is revised to read as follows:

Authority: 42 U.S.C. 11302 (101 Stat. 485); 42 U.S.C. 11461–11464, 11472 (101 Stat. 532–533), as amended.

2. Section 1080.4 is amended by redesignating paragraphs (b) through (d) as paragraphs (c) through (e) and by adding new paragraphs (b), (f) and (g) to read as follows:

§ 1080.4 Eligible use of funds.

* * * * *

(b) Renovation of buildings to be used to provide such services, except that not more than 50 percent of such amounts may be used for such purpose, and provided that all procedures required under the National Historic Preservation Act are followed;

* * * * *

(f) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals; and,

(g) Not more than 5 percent of the amount received will be used to defray State administrative costs.

3. Section 1080.5 is amended by revising paragraph (b)(1) introductory text, by removing paragraph (b)(2), by redesignating paragraphs (b)(3) through (b)(7) as paragraphs (b)(2) through (b)(6) respectively, by revising newly redesignated paragraphs (b)(3), (b)(5), and (b)(6), and by adding new paragraph (b)(7) and the OMB Control number at the end of the section, to read as follows:

§ 1080.5 Application procedures for States.

* * * * *

(b) * * *

(1) The State will award not less than 95 percent of the amounts it receives to:

* * * * *

(3) Not more than 5 percent of the amount received will be used to defray State administrative costs;

* * * * *

(5) Not more than 25 percent of the amounts received will be used for the purpose described in § 1080.4(e) of these regulations; and

(6) The State will have mechanisms in place to assure coordination among State and local agencies serving the homeless. This will include coordination at the State level with the agency responsible for developing the Comprehensive Homeless Assistance Plan or the Comprehensive Housing Affordability Strategy as required by section 401 of such Act (42 U.S.C. 11361), as amended by section 836 of the Cranston-Gonzalez National Affordable Housing Act.

(7) The State will have procedures in place to assure compliance with the provisions of the National Historic Preservation Act prior to the awarding of any amounts to be used for renovating any properties that are listed on, or eligible for inclusion on, the National Register of Historic Places.

(Information collection requirements are approved by the Office of Management and Budget under control number 0970–0088.)

4. Section 1080.6 is amended by revising paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 1080.6 Funding of alternative organizations.

(a) If a State does not apply for or submits an approvable application for a grant under the Emergency Community Services Homeless Grant Program, the Secretary shall use the amounts that would have been allocated to that State to make grants to agencies and organizations in the State that meet the requirements of § 1080.5(b)(1).

* * * * *

(c) Agencies and organizations eligible to be funded under this section shall submit an application meeting the requirements of §§ 1080.5(a) and 1080.5(b)(2), (3), (5), (6) and (7), at a time specified by the Secretary. * * *

5. Section 1080.8 is revised to read as follows:

§ 1080.8 Reporting requirements.

Each recipient of funds under the Emergency Community Services Homeless Grant Program shall submit an annual report to the Secretary, within 6 months of the end of the period covered by the report, on the expenditure of funds and the implementation of the program for that fiscal year.

(a) The report is to state the types of activities funded, any efforts undertaken by the grantee and its subgrantees to coordinate homeless activities funded under this program with other homeless assistance activities in the State and communities, the number of individuals served and any impediments, including statutory and regulatory restrictions to homeless individuals' use of the program and to their obtaining services or benefits under the program.

(b) Such annual report shall provide information on the use of funds to defray State administrative costs, including the types of activities which specifically address services to the homeless and also those activities that are related to the administrative costs associated with the coordination and integration of services to the homeless.

(c) States shall also provide information in the annual report which details programs, progress, and activities that are specifically related to expenditures for renovation, including the effects of such activities on historic properties, and the provision of, or referral to, services for domestic violence.

(Information collection requirements are approved by the Office of Management and Budget under control number 0970–0088.)

[FR Doc. 92–14606 Filed 6–22–92; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amdt. 249]

Organization and Delegation of Powers and Duties; Delegations to All Administrators and the Assistant Secretary for Administration

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the delegations to the Assistant Secretary for Administration and all DOT administrators to waive collection of claims for erroneous payments of pay and allowances by expanding the authority to include waiver of erroneous payments of travel, transportation, and relocation expenses and allowances; and by increasing from $500 to 1,500 the amount that may be waived. This rule is necessary to reflect in the Code of Federal Regulations statutory changes to the Secretary's authority.

EFFECTIVE DATE: June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Joyce B. Johnson, Office of Financial Management, M–83, (202) 366–5631, or Paul B. Larsen, Office of the General Counsel (C–10), (202) 366–9161, Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Public Law 99–224, enacted December 28, 1985, 99 Stat. 1741, 5 U.S.C. 5584, amended waiver statutes granting agency heads the authority to waive collection of claims for erroneous payments of pay and allowances by extending the waiver authority to include erroneous payment of travel, transportation and relocation expenses and allowances. Section 657 of the National Defense Authorization Act of Fiscal Years 1992 and 1993 (Public Law 102–190, enacted December 5, 1991, 105 Stat, 1290, 1393) further amended the statutes to increase form $500 to $1,500 the amount that may be waived. The DOT Organization Manual has been updated to include these statutory changes. The Code of Federal Regulations is being revised to reflect these statutory changes. Since this amendment relates to Departmental management, organization, procedures, and practice, notice and public comment are unnecessary, and it may be made effective in fewer than thirty days after publication in the **Federal Register.** Therefore, this amendment is effective on the date of its publication.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organizations and functions (Government agencies).

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

1. The authority citation for part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

2. Section 1.45 is amended by revising paragraph (a)(8) to read as follows:

§ 1.45 Delegations to all Administrators.

(a) * * *

(8) Waive claims and make refunds in connection with claims of the United States for erroneous payment of pay and allowances or of travel, transportation, and relocation expenses and allowances in amounts aggregating not more than $1,500 without regard to any repayments, and deny requests for waiver of such claims regardless of the aggregate amount of the claim, as provided by 4 CFR parts 91, 92, and 93. Redelegation of this authority may be made only to the level of Regional Director or District Commander.

* * * * *

3. Section 1.59 is amended by revising paragraph (c)(5) to read as follows:

§ 1.59 Delegations to the Assistant Secretary for Administration.

* * * * *

(c) * * *

(5) Waive claims and make refunds in connection with claims of the United States for erroneous payment of pay and allowances or of travel, transportation, and relocation expenses and allowances to an employee of the Office of the Secretary in amounts aggregating not more than $1,500 without regard to any repayments, and deny requests for waiver of such claims regardless of the aggregate amount of the claim, as provided by 4 CFR parts 91, 92, and 93. This authority may be redelgated only to the Director of Financial Management.

* * * * *

Issued at Washington, DC this 12th day of June, 1992.

Andrew H. Card, Jr.,

Secretary of Transportation.

[FR Doc. 92–14677 Filed 6–22–92; 8:45 am]

BILLING CODE 4910–62–M

Proposed Rules

Federal Register
Vol. 57, No. 121
Tuesday, June 23, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 92-019-1]

Citrus Canker Regulations; Survey Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations that quarantine a portion of Florida for citrus canker by removing certain areas in Hillsborough and Manatee Counties and all areas in Sarasota County from the list of survey areas. This action appears necessary to relieve unnecessary regulatory restrictions that currently require regular inspections of these survey areas.

DATES: Consideration will be given only to comments received on or before August 24, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 92-019-1. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Stephen Poe, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease caused by strains of the bacterium *Xanthomonas campestris* pv. *citri* (Hasse) Dye. The disease is known to affect plants and plant parts, including fruit, of citrus and citrus relatives (Family Rutaceae). It can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It may also make the fruit of infected plants unmarketable by causing lesions on the fruit. Infected fruit may also drop from trees before reaching maturity.

In the United States, Florida is the only State where citrus canker exists. Regulations to prevent the interstate spread of citrus canker from Florida are contained in 7 CFR 301.75 *et seq.*, "Subpart—Citrus Canker" (referred to below as the regulations).

The regulations designate certain areas in Florida as quarantined areas and impose restrictions on the interstate movement of regulated articles from and through quarantined areas. The regulations also designate survey areas, which surround the quarantined areas. Survey areas undergo close monitoring by Animal and Plant Health Inspection Service (APHIS) and State inspectors for citrus canker and serve as containment or buffer zones against the disease.

When the current citrus canker quarantine was revised in 1990, regulated plants and regulated trees in an additional area (the survey area), outside of and adjacent to the regulated area, were required to be inspected on a regular basis. This action was taken to insure that, in the unlikely event that citrus canker had spread beyond the regulated area, this spread would be detected and appropriate action could be taken. This would help prevent the disease from becoming established in Florida, or in any other State.

The experience of the State and Federal officials involved in the citrus canker eradication program indicates that the survey area currently described in the regulations is larger than needed to accomplish the objectives intended in the regulations. At a July 25, 1991 public meeting of the Joint State/Federal Citrus Canker Technical Advisory Meeting it was unanimously recommended that specific reductions be made in the survey area. These recommendations were based upon the following arguments.

The survey areas established in 1990 were similar in size to the regulated areas. At that time, much less information was available about the ability of citrus canker disease to spread beyond the immediate vicinity of infested properties. As a result of surveys conducted over an 8 year period, it has been determined that the natural spread of the disease is usually limited to fairly short distances of ½ mile or less. For example, the only new infestations that have been detected in the regulated area since 1990 have been several groves and residential properties that are within about ½ mile of existing infestations in Manatee County.

When the regulated areas were established, there were at least 10 separate infestations, some of which included either large numbers of individual infested properties or groves with large numbers of infected trees. It was thought that the existence of these extensive infestations increased the chance of artificial spread of the disease to locations somewhat removed from the infested property. In the last several years there has been a significant reduction in the occurrence of new infestations, reducing greatly the possibility the disease might be spread by artificial means.

All residential properties and groves in the survey area have been surveyed on a regular basis since 1990, and no infestations have been found in the survey area. The only infestation ever found in the area proposed to be removed from the survey area was a residential property in Sarasota County that was found to be infested in 1987, before the survey area was established and at a time when the regulated area was much more heavily infested than it is today. All infested trees at this property were destroyed following the discovery of this infestation.

Therefore, we believe that reducing the survey area would not increase the risk that citrus canker would be spread to other places within Florida, or to other States. Reducing the survey area would also allow scarce APHIS and State resources to be used for more important activities without compromising the eradication program.

Therefore, we are proposing to remove the following areas from the list of survey areas in § 301.75-4(d)(1):

1. All of Hillsborough County except that area lying west of Grange Hall Loop

Road (west) and Keene Road, south of State Highway 674 to State Road 41, south of State Road 41 to the Little Manatee River and south of the Little Manatee River to Tampa Bay.

2. All of Sarasota County.

3. The portion of Manatee County east of Range 21.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

If this proposed rule is adopted, certain areas in Hillsborough County and Manatee County and all of Sarasota County will be released from classification as a survey area. This means that groves producing regulated fruit for interstate movement, regulated trees, and regulated plants in this declassified survey area would no longer be subject to regular inspections for citrus canker. This change would reduce the burden on APHIS and State agencies, which currently provide inspectors to perform regular inspections in the survey area. This change would not have a significant economic impact on any other persons.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this proposed rule or which would impede its full implementation will be preempted; (2) no retroactive effect will be given to this proposed rule, and (3) it will not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plants (Agriculture), Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR part 301 is proposed to be amended as follows:

1. The authority citation for part 301 would continue to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Paragraph (d)(1) of § 301.75–4 would be amended by revising the first paragraph under "Florida" (that begins "Hillsborough County") to read as follows:

§ 301.75–4 Quarantined areas.

* * * * *

(d) * * *

(1) * * *

Florida

Hillsborough County west of Grange Hall Loop Road (west) and Keene Road, south of State Highway 674 to State Road 41, south of State Road 41 to the Little Manatee River and south of the Little Manatee River to Tampa Bay, and that portion of Manatee County west of Range 21.

* * * * *

Done in Washington, DC., this 18th day of June 1992.

Robert Melland,

Adminsitrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–14734 Filed 6–22–92; 8:45 am]

BILLING CODE 3410–34–M

Agricultural Marketing Service

7 CFR Part 1230

[No. LS–92–001]

Pork Promotion and Research

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: Pursuant to the Pork Promotion, Research, and Consumer Information Act of 1985 and the Order issued thereunder, this proposed rule would decrease the amount of the assessment per pound due on imported pork and pork products to reflect a decrease in the 1991 seven market average price for domestic barrows and gilts and to bring the equivalent market value of the live animals from which such imported pork and pork products were derived in line with the market values of domestic porcine animals.

DATES: Commnets must be received by July 23, 1992.

ADDRESSES: Send two copies of comments to Ralph L. Tapp, Chief; Marketing Programs Branch; Livestock and Seed Division; Agricultural Marketing Service, USDA, room 2624–S; P.O. Box 96456, Washington, DC 20090–6456. Comments will be available for public inspection during regular business hours at the above office in room 2624 South Building; 14th and Independence Avenue, SW.; Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION: This proposed rule was reviewed in accordance with Executive Order No. 12291 and Departmental Regulation 1512–1 and is hereby classified as a nonmajor rule because it does not meet the criteria contained therein for a major rule.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This proposal is not intended to have retroactive effect. The Act states that the statute is intended to occupy the field of promotion and consumer education involving pork and pork products and of obtaining funds thereof from pork producers and that the regulations of such activity (other than a regulation or requirement relating to a matter of public health or the provision of state or local funds for such activity) that is in addition to or different from the act may not be imposed by a State.

The Act provides that administrative proceedings must be exhausted before

parties may file suit in court. Under section 1625 of the Act, a person subject to an order may file a petition with the Secretary stating that such order, a provision of such order or an obligation imposed in connection with such order is not in accordance with law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in the district in which person resides or does business has jurisdiction to review the Secretary's determination, if a complaint is filed not later than 20 days after the date such person receives notice of such determination.

This action also was reviewed under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.). The effect of the Order upon small entities was discussed in the September 5, 1986, issue of the **Federal Register** (51 FR 31898), and it was determined that the Order would not have a significant effect upon a substantial number of small entities. Many importers may be classified as small entities. This proposed rule would decrease the amount of assessments on imported pork and pork products subject to assessment by three- to four-hundredths of a cent per pound, or as expressed in cents per kilogram, seven- to nine-hundredths of a cent per kilogram. Adjusting the assessments on imported pork and pork products would result in an estimated decrease in assessments of $170,000 over a 12-month period. Accordingly, the Administrator of the Agricultural Marketing Service (AMS) has determined that this action would not have a significant economic impact on a substantial number of small entities.

The Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801–4819) approved December 23, 1985, authorized the establishment of a national pork promotion, research, and consumer information program. The program was funded by an initial assessment rate of 0.25 percent of the market value of all porcine animals marketed in the United States and an equivalent amount of assessment on imported porcine animals, pork, and pork products. However, that rate was increased to 0.35 percent effective December 1, 1991 (56 FR 51635). The final Order establishing a pork promotion, research, and consumer information program was published in the September 5, 1986, issue of the **Federal Register** (51 FR 31898; as corrected, at 51 FR 36383 and amended at 53 FR 1909, 53 FR 30243, and 56 FR 51635) and assessments began on November 1, 1986.

The Order requires importers of porcine animals to pay the U.S. Customs Service (USCS), upon importation, the assessment of 0.35 percent of the animal's declared value and importers of pork and pork products to pay to the USCS, upon importation, the assessment of 0.35 percent of the market value of the live porcine animals from which such pork and pork products were produced. This proposed rule would decrease the assessments on all of the imported pork and pork products subject to assessment listed in 7 CFR 1230.110 (October 15, 1991; 56 FR 51635). This decrease is consistent with the decrease in the annual average price of domestic barrows and gilts at the seven markets for calendar year 1991 as reported by the USDA, AMS, Livestock and Grain Market News (LGMN) Branch. This decrease in assessments would make the equivalent market value of the live porcine animal from which the imported pork and pork products were derived reflect the recent decrease in the market value of domestic porcine animals, thereby promoting comparability between importer and domestic assessments. This proposed rule would not change the current assessment rate of 0.35 percent of the market value.

The methodology for determining the per-pound amounts for imported pork and pork products was described in the supplementary information accompanying the Order and published in the September 5, 1986, **Federal Register** at 51 FR 31901. The weight of imported pork and pork products is converted to a carcass weight equivalent by utilizing conversion factors which are published in the USDA Statistical Bulletin No. 616 "Conversion Factors and Weights and Measures." These conversion factors take into account the removal of bone, weight lost in cooking or other processing, and the nonpork components of pork products. Secondly, the carcass weight equivalent is converted to a live animal equivalent weighted by dividing the carcass weight equivalent by 70 percent, which is the average dressing percentage of porcine animals in the United States. Thirdly, the equivalent value of the live porcine animal is determined by multiplying the live animal equivalent weight by an annual average seven market price for barrows and gilts as reported by the USDA, AMS, LGMN Branch. This average price is published on a yearly basis during the month of January in the LGMN Branch's publication "Livestock, Meat, and Wool Weekly Summary and Statistics." Finally, the equivalent value is multiplied by the applicable assessment rate of 0.35 percent due on imported pork and pork products. The end result is expressed in an amount per pound for each type of pork or pork product. To determine the amount per kilogram for pork and pork products subject to assessment under the Act and Order, the cent-per-pound assessments are multiplied by a metric conversion factor 2.2046 and carried to the sixth decimal.

The formula in the preamble for the Order at 51 FR 31901 contemplated that it would be necessary to recalculate the equivalent live animal value of imported pork and pork products to reflect changes in the annual average price of domestic barrows and gilts to maintain equity of assessments between domestic porcine animals and imported pork and pork products.

The average annual seven market price decreased from $54.55 in 1990 to $48.46 in 1991, a decrease of about 11 percent. This decrease would result in a corresponding decrease in assessments for all the Harmonized Tariff Systems (HTS) numbers listed in the table in § 1230.110 of an amount equal to three- to four-hundredths of a cent per pound, or as expressed in cents per kilogram, seven- to nine-hundredths of a cent per kilogram. Based on the most recent available Department of Commerce, Bureau of Census, data on the volume of imported pork and pork products the proposed decrease in assessment amounts would result in an estimated $120,000 decrease in assessments over a 12-month period.

List of Subjects in 7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Marketing agreement, Meat and meat products, Pork and pork products, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 1230 be amended as set forth below:

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

1. The authority citation for 7 CFR Part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

Subpart B—[Amended]

2. Subpart B—Rules and Regulations is amended by revising § 1230.110 to read as follows:

§ 1230.110 Assessments on imported pork and pork products.

The following HTS categories of imported live porcine animals are subject to assessment at the rate specified.

Live porcine animals	Assessment
0103.10.00004	0.35 percent Customs Entered Value.
0103.91.00006	0.35 percent Customs Entered Value.
0103.92.00005	0.35 percent Customs Entered Value.

The following HTS categories of imported pork and pork products are subject to assessment at the rates specified.

Pork and pork products	Assessment	
	cents/lb	cents/kg
0203.11.00002	.24	.529104
0203.12.10107	.24	.529104
0203.12.10205	.24	.529104
0203.12.90100	.24	.529104
0203.12.90208	.24	.529104
0203.19.20108	.28	.617288
0203.19.20901	.28	.617288
0203.19.40104	.24	.529104
0203.19.40907	.24	.529104
0203.21.00000	.24	.529104
0203.22.10007	.24	.529104
0203.22.90000	.24	.529104
0203.29.20008	.28	.617288
0203.29.40004	.24	.529104
0206.30.00006	.24	.529104
0206.41.00003	.24	.529104
0206.49.00005	.24	.529104
0210.11.00101	.24	.529104
0210.11.00209	.24	.529102
0210.12.00208	.24	.529104
0210.12.00404	.24	.529104
0210.19.00103	.28	.617288
0210.19.00906	.28	.617288
1601.00.20105	.34	.749564
1601.00.20908	.34	.749564
1602.41.20203	.37	.815702
1602.41.20409	.37	.815702
1602.41.90002	.24	.529104
1602.42.20202	.37	.815702
1602.42.20408	.37	.815702
1602.42.40002	.24	.529104
1602.49.20009	.34	.749564
1602.49.40005	.28	.617288

Dated: June 17, 1992.

Daniel Haley,

Administrator.

[FR Doc. 92–14728 Filed 6–22–92; 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 91–153]

Transit of Animal Products From Restricted Countries Through the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow certain animal products to be moved through the United States from countries that are declared free of food-and-mouth disease but that are subject to certain restrictions, and from countries that are considered free of swine vesicular disease but that are subject to certain restrictions, even if the animal products do not originate in establishments approved by the United States Department of Agriculture. We believe this action would provide shippers in certain foreign countries additional cargo routes to foreign destinations, without increasing the risk of introducing animal diseases into the United States.

DATES: Consideration will be given only to comments received on or before July 23, 1992.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 91–153. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. John Gray, Senior Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) regulate, among other things, the importation into the United States of certain animals, meat, and animal products. These regulations are designed, among other things, to prevent the introduction into the United States of rinderspest, foot-and-mouth disease, African swine fever, hog cholera, swine vesicular disease, and viscerotropic velogenic Newcastle disease.

Section 94.1(a)(1) of the regulations provides that rinderpast or foot-and-mouth disease exists in all countries of the world except those listed in § 94.1(a)(2), which are declared to be free of those diseases. When a country is added to the list of countries declared free of rinderpast and foot-and-mouth disease, the imporation into the United States of live ruminants and swine as well as fresh, chilled, and frozen meat from ruminants and swine from that country is no longer prohibited, provided all other criteria in part 94 for importation are met.

However, of the countries that have been declared free of rinderpest and foot-and-mouth disease, certain ones either (1) supplement their national meat supply by importing fresh, chilled, or frozen meat of ruminants or swine from countries in which rinderpest or foot-and-disease exists; (2) have common land borders with counties in which rinderpest or foot-and-mouth disease exists; or (3) import ruminants or swine from countries in which rinderpest or foot-and-mouth disease exists under conditions less restrictive than would be acceptable for importation into the United States. Each of these practices or situations increases the risk that rinderpest or foot-and-mouth disease will enter the country. The countries in question are listed in § 94.11(a).

A similar situation exists with regard to countries in which swine vesicular disease is not considered to exist. Section 94.12(a) of the regulations provides that swine vesicular disease is considered to exist in all countries of the world except those listed in that paragraph. When a country is added to the list of countries considered free of swine vesicular disease, the importation of live swine and fresh, chilled, or frozen meat from swine from that country is no longer prohibited, provided all other criteria in part 94 for importation are met. However, certain countries considered free of swine vesicular disease either (1) supplement their national pork supply by the importation of fresh, chilled, or frozen pork from countries where swine vesicular disease is considered to exist; (2) have a common border with such countries; or (3) have certain trade practices that are less restrictive than are acceptable to the United States. These countries are listed in § 94.13. Because of this risk, the regulations in § 94.11 with regard to rinderpest and foot-and-mouth disease, and the regulations in § 94.13 with regard to swine vesicular disease, require that meat or other products of

ruminants or swine or pork or pork products, respectively, from such countries meet certain criteria before being imported into the United States.

The criteria for importation include certification of certain practices in the slaughtering establishment to ensure that the animal products to be imported are not commingled with animals or animal products that might have, or might have been exposed to, the disease in question. These criteria are contained in §§ 94.11(c) and 94.13(b). Under this proposed rule, these provisions would continue to apply to animal products intended for transit through the United States.

Additionally, the regulations in current §§ 94.11(b) and 94.13(a) require that products intended for importation into the United States be prepared in inspected establishments that are eligible to have their products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the regulations in 9 CFR 327.2. The commodity must also be accompanied by a meat inspection certificate approved by the United States Department of Agriculture (USDA) as set forth in 9 CFR 327.4, or, under § 94.11 only, a similar certificate approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS). The regulations in 9 CFR part 327 are promulgated by the Food Safety and Inspection Service (FSIS), UADA, and are primarily concerned with the safety and wholesomeness of meat and poulty products for human consumption.

The provisions in current §§ 94.11(b) and 94.13(a) that refer to 9 CFR part 327 are intended to alert parties interested in importing animal products that, in addition to meeting the applicable requirements of 9 CFR part 94, they must comply with regulations established by FSIS for importation and entry of products into the United States.

Currently, animal products that are intended for transit through the United States on their way to a foreign country, and that originate in a country subject to the special restrictions described above, must meet all the criteria for importation applied to animal products intended for entry into the commerce of the United States. This means that only animal products that were prepared in inspected establishments eligible to have their products imported for consumption in the United States under the Federal Meat Inspection Act and its related regulations may transit the United States. Because animal products from the countries in question often are not prepared in eligible establishments, shippers of those products are frequently denied access to shipping routes across the United States, which is used as a hub by major shipping lines. As a result, shippers must either use more costly and time-consuming routes or decline to transport the products.

A number of shippers have expressed interest in moving animal products that are not prepared in inspected, eligible plants through the United States from countries listed in §§ 94.11(a) and 94.13. We do not believe it is necessary to require animal products intended for transit through the United States from these countries to meet the FSIS requirements for products intended for use in the United States. Therefore, in this document, we are proposing to amend § 94.15 to, in effect, remove the requirements relating to the FSIS regulations for the articles governed by §§ 94.11 and 94.13 that are intended for transiting.

Current § 94.15 sets forth criteria for transit through the United States of any animal product or material that would be eligible for entry into the United States. We are proposing to extend the same criteria to the animal products that currently must be prepared in eligible, inspected establishments to qualify for importation, even if the products are not prepared in such establishments and are not accompanied by the certification set forth in 9 CFR 327.4. Under these provisions (1) the importer woud have to notify the APHIS, Plant Protection and Quarantine, officer at the United States port of arrival prior to the transiting; (2) the product would have to be kept in a leakproof carrier or container while being transported, including any time being offloaded in the United States for reshipment; and (3) the transiting would have to be for immediate export. Additionally, we are proposing to require that the products meet all other applicable provisions of part 94. We believe that these requirements will continue to minimize the risk of the introduction of rinderpest, foot-and-mouth disease, and swine vesicular disease into the United States.

In order to clarify what we intend by "immediate export," we would define that term in § 94.0 to mean "the period of time determined by APHIS, based on shipping routes and timetables, to be the shortest practicable interval of time between the arrival in the United States of an incoming carrier and the departure from the United States of an outgoing carrier, to transport a consignment of products."

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposal in conformance with Executive Order 12291 and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis regarding the impact of this proposed rule on small entities.

In accordance with 21 U.S.C. 111, the Secretary of Agriculture is authorized to promulgate regulations to prevent the introduction into the United States from a foreign country of any contagious, infectious, or communicable disease of animals. We are proposing to revise sections of 9 CFR part 94 to allow animal products from certain countries to transit the United States in order to be shipped to third countries for which they are destined, even if the animal products are not prepared in inspected establishments that are eligible to have their products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the regulations in 9 CFR 327.2, and are not accompanied by the USDA-approved foreign meat inspection certificate prescribed in 9 CFR 327.4. We believe these changes would open up additional trade routes for animal products not prepared in the described establishments or accompanied by the described certification, without increasing the risk of the introduction of disease into the United States.

This proposed rule would create no new restrictions. We are aware that implementation of this proposed rule could generate the transit of additional shipments of animal products through United States ports. In particular, we are aware of a large volume of intended shipments originating from European countries (specifically, Great Britain and Northern Ireland), and destined for Caribbean countries and Mexico, that would transit the United States. This is because major shipping lines use the United States and its ports as a major shipping hub.

There would be a beneficial economic impact from any increase in volume of shipments handled at United States

ports. The exporters of animal products, shipping lines, consumers in recipient countries, domestic specialized transport companies, and domestic brokerage houses would also benefit from this proposed action. However, at present, we have limited information on the number of potential shipments or commodities that might transit the United States under this proposed rule. Therefore, we are soliciting comments and information from the public concerning the potential economic impact of this proposed rule, particularly as it would relate to small entities.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the information collection provisions that are included in this proposed rule have been submitted for approval to the Office of Management and Budget. Your written comments will be considered if you submit them to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. You should submit a duplicate copy of your comments to: (1) Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue, SW., Washington, DC 20250.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule were adopted, all State and local laws, regulations, or policies that are in irreconcilable conflict with this proposed rule would be preempted. If adopted, no retroactive effect would be given to this proposed rule. If adopted, this proposed rule would not require administrative proceedings before parties may file suit in court.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 would be amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAQUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA; PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a; 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 94.0 would be amended by adding a definition of "Immediate export", in alphabetical order, to read as follows:

§ 94.0 Definitions.

* * * * *

Immediate export. The period of time determined by APHIS, based on shipping routes and timetables, to be the shortest practicable interval of time between the arrival in the United States of an incoming carrier and the departure from the United States of an outgoing carrier, to transport a consignment of products.

* * * * *

§ 94.15 [Amended]

3. Section 94.15 would be amended by designating the introductory text as paragraph (a), and by redesignating paragraphs (a) and (b) as (a)(1) and (a)(2), respectively.

4. Section 94.15 would be amended by adding a new paragraph (b) to read as follows:

§ 94.15 Animal products and materials; movement and handling.

* * * * *

(b) Meat and other products of ruminants or swine from countries listed in § 94.11(a) and pork and pork products from countries listed in § 94.13 of this part that do not meet the requirements of § 94.11(b) or § 94.13(a) may transit through the United States for immediate export, provided the provisions of paragraph (a) of this section are met, and provided all other applicable provisions of this part are met.

Done in Washington, DC, this 18th day of June 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92–14733 Filed 6–22–92; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–34–AD]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain British Aerospace Model ATP series airplanes, that would have required installation of an intercompressor case (ICC) fire detector system. That proposal was prompted by reports of engine fires that originated from a bearing failure inside the ICC on Pratt and Whitney PW126 series engines. This action revises the proposed rule by adding a requirement to revise the Airplane Flight Manual (AFM) to include operating procedures associated with the ICC fire system. The actions specified by this proposed AD are intended to prevent severe structural damage to the airplane resulting from an engine ICC fire.

DATES: Comments must be received by July 21, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–34–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-34-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-34-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations to add an airworthiness directive (AD), applicable to British Aerospace Model ATP series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on March 27, 1992 (57 FR 10618). That NPRM would have required installation of an intercompressor case (ICC) fire detector system. That NPRM was prompted by reports of engine fires that originated from a bearing failure inside the ICC on Pratt and Whitney PW126 series engines. That condition, if not corrected, could result in severe structural damage to the airplane resulting from an engine ICC fire.

Since the issuance of that NPRM, the FAA has determined that an additional requirement to revise the Airplane Flight Manual (AFM) is necessary. This revision would provide the flight crew with operating procedures associated with the ICC fire detection system.

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

As was noted in the originally issued NPRM, this proposed AD is considered interim action. Pratt and Whitney is currently developing a modification of the Pratt and Whitney PW126 series engine that will provide a more reliable bearing, and will effectively preclude an ICC fire resulting from a bearing failure. Once such modification is developed, approved, and available, the FAA may consider further rulemaking.

The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 9 work hours per airplane to accomplish the proposed installation actions, and approximately 1 work hour to revise the AFM, at an average labor rate of $55 per work hour. Required installation parts would cost approximately $985 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $15,350, or $1,535 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 92-NM-34-AD.

Applicability: Model ATP series airplanes; serial numbers 2001 through 2045, inclusive; which have been modified in accordance with Pratt and Whitney Service Bulletin PW100-72-21097, dated November 8, 1991; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent severe structural damage to the airplane due to an internal engine fire within the intercompressor case, accomplish the following:

(a) Within 90 days after modification in accordance with Pratt and Whitney Service Bulletin PW100-72-21097, dated November 8, 1991, or within 90 days after the effective date of this AD, whichever occurs later:

(1) Install an intercompressor case (ICC) fire detector system, in accordance with British Aerospace Service Bulletin ATP-26-5-35225A, dated October 30, 1991.

(2) Revise Section 0.25.0 of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD in the AFM.

"Modification No.	Description
35225A	Introduction of ICC Fire Detector at the Intercompressor Case."

(3) Revise the FAA-approved Airplane Flight Manual (AFM) to include operating information pertaining to the ICC fire detection systems. This may be accomplished by inserting a copy of Temporary Revision No. T/24, Issue 1, dated February 17, 1992, into the AFM.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may

concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Standardization Branch, ANM-113.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 5, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-14620 Filed 6-22-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-98-AD]

Airworthiness Directives; British Aerospace Model DH/HS 125 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model DH/HS 125 series airplanes. This proposal would require a one-time visual inspection to detect corrosion on the main landing gear (MLG) support brackets, rear spar sections, inboard flap hinge arms, and associated attachment hardware; and repair or replacement, if necessary. This proposal is prompted by a report of severe corrosion found on the wing rear spar at the interface with the outboard main landing gear (MLG) support bracket. The actions specified by the proposed AD are intended to prevent loss of structural integrity and possible collapse of MLG on landing or take-off.

DATES: Comments must be received by August 10, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-98-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC. 20041-0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Hank Jenkins, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2141; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-98-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-98-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority, which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model DH/HS 125 series airplanes. The Civil Aviation Authority advises that there has been one report of severe corrosion found on an early production airplane model, in the vicinity of the left- and right-hand wing rear spar, at the interface with the left- and right-hand outboard MLG support brackets. If uncorrected, this condition could cause loss of structural integrity and possible collapse of MLG on landing or take-off.

British Aerospace has issued Service Bulletin SB 57-76, dated December 31, 1991, which describes procedures for a one-time visual inspection to detect corrosion on the MLG support brackets, rear spar sections, inboard flap hinge arms, and associated attachment hardware; and repair or replacement, if necessary. Repair procedures includeapplications of improved protective treatments and sealants. The Civil Aviation Authority classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Civil Aviation Authority has kept the FAA informed of the situation described above. The FAA has examined the findings of the Civil Aviation Authority, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a one-time visual inspection to detect corrosion on the main landing gear (MLG) support brackets, rear spar sections, inboard flap hinge arms, and associated attachment hardware, and repair or replacement, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 49 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 300 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $808,500. This total cost figure assumes that no operator has yet accomplished the requirements of this proposed AD action.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39–AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace: Docket 92–NM–98–AD.

Applicability: Model DH/HS 125 series airplanes; as listed in British Aerospace Service Bulletin SB 57–76, dated December 31, 1991; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of structural integrity and possible collapse of MLG on landing or take-off, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform a one-time visual inspection to detect corrosion on the MLG support brackets, rear spar sections, inboard flap hinge arms, and associated attachment hardware, in accordance with British Aerospace Service Bulletin SB 57–76, dated December 31, 1991.

(b) If no corrosion is found on the MLG support brackets, rear spar sections, inboard flap hinge arms, and associated attachment hardware, no further action is necessary.

(c) If any corrosion is found on the MLG support brackets, rear spar sections and inboard flap hinge arms, prior to further flight, replace any corroded parts found, or repair in a manner approved by the Manager, Standardization Branch, ANM–113, Transport Airplane Directorate.

(d) If corrosion is found on any associated attachment hardware that is within the limitations specified in the Structural Repair Manual (SRM) Chapter 51–10, prior to further flight, replace or repair in accordance with the SRM.

(e) If corrosion is found on any associated attachment hardware that is beyond the limitations specified in the Structural Repair Manual (SRM) Chapter 51–10, prior to further flight, replace or repair in a manner approved by the Manager, Standardization Branch, ANM–113, Transport Airplane Directorate.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(g) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on June 8, 1992.

Bill R. Boxwell,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–14700 Filed 6–22–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 20

[No. P8–15; Notice No. 743]

Specially Denatured Spirits, Miscellaneous Amendments

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes:

(1) To eliminate the requirement that a person obtain a permit as a dealer in specially denatured spirits with respect to shipments of specially denatured spirits which that persons never physically received nor intended to receive;

(2) To clarify a reference to specially denatured spirits, and to correct a regulatory reference, in 27 CFR 20.25.;

(3) To allow for the notification of adoption of formulas and statements of process to be file at the regional level;

(4) To allow distributors of an article to place minimal identifying information (name, address and phrase such as "distributed by") on the label of that article without qualifying in any manner under 27 CFR part 20;

(5) To allow that, in certain cases, code marks may be used on the container where the article was manufactured; and

(6) To revise the procedures for the distribution of specially denatured spirits from one user to another. These proposed changes are intended to liberalize the procedures applicable to the distribution of specially denatured spirits, and reduce regulatory burdens.

DATES: Written comments must be received on or before July 23, 1992.

ADDRESSES: Send written comments to: Chief, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221. (Notice No. 743).

FOR FURTHER INFORMATION CONTACT: Tamara Light, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 ((202) 927–8210).

SUPPLEMENTARY INFORMATION:

Background

Dealer redefined

26 U.S.C. 5271 provides, in part, that persons who deal in specially denatured spirits shall obtain a permit which authorizes that activity. AFT has interpreted the term "deal in" to mean the purchase and sale of specially denatured spirits. This interpretation has sometimes required a person who merely takes orders for specially denatured spirits, and arranges for the shipment to an eligible user, to qualify with AFT as a dealer, to file a bond and to otherwise comply with the regulatory provisions of 27 CFR part 20, because that person is buying and selling specially denatured alcohol. Since a person acting in this manner never physically receives a shipment of specially denatured spirits, and never intends to receive such shipment, AFT feels that by revising the definition of the term dealer, only those persons who engage in activities involving physical possession of denatured spirits will be required to obtain a permit.

It is AFT's view that product accountability should rest with persons who physically receive specially denatured spirits. This view is based on the fact that specially denatured spirits may only be transferred between persons who hold a permit authorizing them to receive, store, use or denature such products. This means that ATF can establish the accountability of specially denatured spirits by verifying that the consignor and consignee are operating in compliance with the provisions of 27 CFR parts 19 and 20. There is no need for ATF to consider the ownership (without physical receipt) of specially denatured spirits by intervening third parties.

If this proposal is adopted, accountability and tax liability relating to specially denatured spirits will reside with those persons who are accountable for the specially denatured spirits because they physically possess the product.

Regulation 27 CFR 20.25 Clarified

The phrase "specially denatured alcohol" in § 20.25 would be revised to read "specially denatured spirits." Section 20.25 would also be revised to correct the reference to § 20.222 to read § 20.241.

Regulation in 20.63 Revised

The regulations in 27 CFR 20.63 provide for the adoption of a predecessor's formulas and statements of process by a successor. Current regulations require the successor to submit to the Director a certificate containing information regarding the proposed adoption. ATF proposes to change § 20.63 to allow the certificate to be submitted to the regional director (compliance) instead of the Director. This change is intended to make this procedure consistent with other regulatory requirements that changes after original qualifications be filed with the regional director (compliance). The proposed change would result in a streamlined process for notifying ATF of changes which affect permits.

Changes in Labeling Provisions for Articles

The Cosmetic, Toiletry and Fragrance Association (CTFA) on behalf of its members, petitioned ATF to amend 27 CFR 20.134(b) to allow the principal place of business to be shown on the labels of articles for external human use that contain denatured spirits, when the labels are coded to identify the place the article was manufactured. CTFA has requested this change to ease the burden of the labeling requirements for companies who have more than one manufacturing facility. The current regulations require the name and principal office of the manufacturer and the permit number of the place of manufacture. The purpose of this requirement is to provide the consumer with information about the manufacturing location of the article. We believe the consumer would be sufficiently informed as to who is responsible for the article if manufacturers were allowed to use their principal business address on the label. This proposed change would facilitate the use of identical labels in the situation where a single manufacturer operates more than one manufacturing site. Manufacturers with more than one manufacturing site would have a reduced cost because they would no longer maintain separate label inventories merely because of different addresses printed on labels. The identifying code marks would be permissible following submission of a notice explaining the coding system to the regional director (compliance) of the region where the manufacturing site is located.

ATF also proposes to change 27 CFR 20.134 to permit distributors to add a label to an article without the necessity to qualify in any way under 27 CFR part 20, provided the label merely states the distributor's name and address (city and State) and a short explanatory phrase, such as "Distributed by." Such additional labeling has been permitted for many years for alcoholic beverage products without danger to revenue or to consumers. It is expected that the use of such additional labeling would be a matter to be agreed upon between the manufacturer or packager and the distributor.

Regulation 20.235 Revised

Regulation 27 CFR 20.235(a) permits the transfer of specially denatured spirits from one user to another. The proposed revision to § 20.235 would clarify the manner in which such spirits packaged for transfer shall be marked or labeled. This change would improve the accountability of the specially denatured spirits.

Regulatory Flexibility Act

The provision of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this notice of proposed rulemaking, because the proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal, if promulgated as a final rule, is not expected to have significant secondary or incidental effects on a substantial number of small entities, or to impose or otherwise cause, a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities. Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. A copy of this notice of proposed rulemaking is being sent to the Small Business Administration for comment pursuant to 26 U.S.C. 7805(f).

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this proposal is not a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project 1512–0336 and 1512–0337, Washington, DC 20503, with copies to the Chief, Information Programs Branch, room 3200, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226.

The collections of information in this proposed regulation are in §§ 20.63, 20.63, 20.134 and 20.235. This information is required by the Bureau of Alcohol, Tobacco and Firearms in order to protect the revenue and to protect consumers. Collections of information contained in regulations §§ 20.63, 20.134 and 20.235 have been previously approved by the Office of Management and Budget under control numbers 1512–0336 and 1512–0337. The proposed changes to these regulations will not effect the previously approved collections of information. The likely respondents are small business or

organizations, businesses or other for-profit institutions, or non-profit institutions. The total annual reporting burden for 1512–0336, which combines numerous sections of regulations contained in 27 CFR part 20, is 1,556 hours. The total annual recordkeeping burden for 1512–0337 is 1 hour.

Public Participation—Written Comments

ATF requests comments from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date. ATF will not recognize any material as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure. During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Disclosure

Copies of this notice and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, room 6480, Massachusetts Avenue NW., Washington, DC.

Drafting Information

The principal author of this document is Tamara Light, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 20

Administrative practice and procedure, Advertising, Alcohol and alcohol beverages, Authority delegations, Claims, Excise taxes, Reporting and recordkeeping requirements, Surety bonds.

Issuance

Accordingly, 27 CFR part 20, entitled "Distribution and Use of Denatured Alcohol and Rum," is proposed to be amended as follows:

PART 20—[AMENDED]

Paragraph 1. The authority citation for 27 CFR part 20 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5206, 5214, 5271–5275, 5311, 5552, 5555, 5607, 6065, 7805.

Par. 2. Section 20.11 is amended by revising the definition for dealer and by adding the OMB control number to the end of the section to read as follows:

§ 20.11 Meaning of terms.

* * * * *

Dealer. A person required to hold a permit to deal in specially denatured spirits for resale to persons authorized to purchase or receive specially denatured spirits which that person never physically receives or intends to receive.

* * * * *

(Approved by the Office of Management and Budget under control number 1512–0336)

Par. 3. Section 20.25 is revised to read as follows:

§ 20.25 Permits.

The Director shall issue permits covering the use of specially denatured spirits by the United States or a Governmental agency as provided in § 20.241. The regional director (compliance) shall issue the industrial alcohol user permit, Form 5150.9, required under this part.

Par. 4. The information cite immediately following section 20.36 is revised to read as follows:

§ 20.36 Execution under penalties of perjury.

* * * * *

(26 U.S.C. 6065)

Par. 5. Section 20.63(a) is revised to read as follows:

§ 20.63 Adoption of formulas and statements of process.

(a) The adoption by a successor (proprietorship or fiduciary) of a predecessor's formulas and statements of process as provided in § 20.57(c), and § 20.58, will be in the form of a certificate submitted to the regional director (compliance).

* * * * *

Par. 6. Section 20.134(b)(1)(ii) is revised and paragraph (f) is added to read as follows:

§ 20.134 Labeling.

(b) * * *

(1) * * *

(ii) The name and principal office address (city and State) of the manufacturer, and the permit number or numbers of the place or places of manufacturer. However, in lieu of such permit number or numbers, the place or places where the manufacturing operation occurred may be indicated by a coding system. Prior to using a coding system, the manufacturer shall send a notice explaining the coding system to the regional director (compliance) of the region where the manufacturing site is located, or

* * * * *

(f) *Distributor labeling.* Distributors of an article may place minimal identifying information (name, address and a phrase such as "distributed by") on the label of that article (or on an additional label) without qualifying in any manner under this part; provided:

(1) The article is produced, packaged and labeled as provided in this part; and

(2) The distributor does not produce, repackage or reprocess the article.

* * * * *

Par. 7. Section 20.235 is amended by revising paragraph (b) to read as follows:

§ 20.235 Disposition to another user.

* * * * *

(b) The user shall prepare a record of shipment in accordance with § 20.171. The packages to be shipped shall bear the name and permit number of the user and the marks and labels required under § 20.178. The user's copy of the record of shipment shall include an explanation of the reason for the disposition.

* * * * *

Dated: June 2, 1992.

Daniel R. Black,

Acting Director.

Approved:

Dennis M. O'Connell,

Acting Assistant Secretary, (Enforcement).

[FR Doc. 92–14441 Filed 6–22–92; 8:45 am]

BILLING CODE 4810–31–M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2200

Rules of Procedure

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Occupational Safety and Health Review Commission recently proposed a revision of certain of its procedural rules for adjudicative proceedings before the Commission and its Administrative Law Judges. 57 FR 20220–20234, May 12, 1992. The Commission invited public comment on or before June 26, 1992. The Commission has had a number of inquiries regarding the possibility of extending the comment period. In response, the Commission has agreed to extend the comment period by

fourteen days. This document extends the comment period.

DATE: Comments must be submitted on or before July 10, 1992.

ADDRESS: Comments may be mailed to—Earl R. Ohman, Jr., General Counsel, Occupational Safety and Health Review Commission, Room 402–A, 1825 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Earl R. Ohman, Jr. at (202) 634–4015.

List of Subjects in 29 CFR Part 2200

Hearing and appeal procedures, Administrative practice and procedure

Dated: June 18, 1992.

Edwin G. Foulke, Jr.,

Chairman.

Donald G. Wiseman,

Commissioner.

[FR Doc. 92–14764 Filed 6–22–92; 8:45 am]

BILLING CODE 7600–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[M08–1–5334; FRL–4144–5]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve revisions to the Air Pollution Control State Implementation Plan (SIP) submitted by the state of Missouri, which pertain to the St. Louis vehicle inspection and maintenance (I/M) program. As a result of EPA audits of the program, EPA requested that the state of Missouri submit a corrective action plan (CAP). This CAP consists of regulatory specifications for computerized emission analyzers which should facilitate correction of the problems experienced in the program. Improvements in the I/M program will reduce vehicle emissions which will ensure progress toward attaining the ozone standard in St. Louis.

DATES: Comments must be received on or before July 23, 1992.

ADDRESSES: Comments may be mailed to Stanley A. Walker, Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the state submittal are available for public inspection during normal business hours at: The Environmental Protection Agency, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and at the Missouri Department of Natural Resources, Air Pollution Control Program, Jefferson State Office Building, 205 Jefferson Street, Jefferson City, Missouri 65101.

FOR FURTHER INFORMATION CONTACT: Stanley A. Walker at (913) 551–7494.

SUPPLEMENTARY INFORMATION:

I. Background

On January 1, 1984, the state of Missouri began implementing a motor vehicle I/M program in the St. Louis metropolitan area. The Missouri State Highway Patrol (MSHP) adopted the necessary procedures and rules to incorporate the emission test into the existing statewide decentralized safety inspection program. A decentralized program employs a large number of privately owned, licensed inspection facilities, whereas a centralized program utilizes high-volume, test only stations, run by either a government agency or a contractor. The St. Louis I/M program is jointly administered by the MSHP and the Missouri Department of Natural Resources (MDNR). The MSHP oversees the vehicle inspection process, while MDNR provides technical assistance and tracks progress. On August 12, 1985, EPA approved the St. Louis I/M program as a SIP revision (50 FR 32411).

EPA audited the St. Louis, Missouri, I/M program on March 4 through 7, 1985. The program elements evaluated were: testing procedures, quality control/quality assurance, enforcement, vehicle coverage, waivers, consumer protection, and tampering. The audit identified several problems in the I/M program including: A low failure rate, unrepresentative reporting on tampering rate, and an excessive waiver rate.

Failure rate is determined by the number of vehicles that fail inspection divided by the number of vehicles inspected. Failure rate is an indication of the effectiveness of a program. The number or fraction of vehicles failed determines the potential for air quality benefits from repair of those vehicles. EPA's failure rate design criteria is based on the 1977 New Jersey I/M program and is calculated using an EPA mobile source model.

Tampering occurs when vehicle air pollution control devices are removed or rendered inoperative. Tampering rates are determined by surveying vehicles and measuring the extent to which tampering has occurred. The 1984 national tampering survey found an average tampering rate of 11 percent in St. Louis, Missouri. The 1985 audit indicated a reported incidence of tampering of only 2 percent.

Waiver rate is defined as the number of vehicles which ultimately are waived divided by the total number of vehicles which fail the initial emissions test. The waiver rate in St. Louis was unrepresentative because some vehicles were granted waivers, after receiving low emission tune-ups, without being retested. Therefore, some of the vehicles which received waivers would have been able to pass the emission retest. This led to an indicated higher waiver rate.

As mentioned previously herein, EPA approved the St. Louis I/M program in 1985 (50 FR 32411). At that time, I/M programs were required to meet the minimum emission reduction requirements (MERR), as defined in House Report Number 95–294, 95th Congress, 1st Session, 281–291 (1977). The 1985 audit found that the St. Louis I/M program experienced a significant shortfall in achieving the minimum required volatile organic compound (VOC) and carbon monoxide (CO) emission reductions necessary for an acceptable I/M program.

As a follow-up to the March 1985 audit, EPA conducted a second audit of the St. Louis I/M program on May 4 through May 7, 1987. The follow-up audit showed that the state had not made sufficient progress toward improving the program. Based on the continued low failure rate, unrepresentative reporting on tampering rate, and excessive waiver rate, the I/M program once again failed to achieve a level of emission reduction consistent with MERR.

Since the St. Louis I/M program did not meet the minimum requirements, EPA requested the state, in a June 23, 1987, letter, to submit a CAP for correcting the St. Louis I/M program deficiencies. To correct the I/M program, EPA allowed the state two options—either switch to a centralized program, or implement new computerized analyzers in the existing decentralized program. MDNR ultimately submitted an acceptable CAP on September 20, 1988, which committed to implement computerized analyzers.

As part of the corrective plan, Missouri anticipated that it would begin implementing the California Bureau of Automotive Repair (BAR–84) analyzer by June 1, 1989. However, in January 1989, the California Bureau of Automotive Repair proposed new emission analyzer specifications, i.e., the California BAR–90 analyzer. Consequently, Missouri reevaluated its previous decision to require the BAR–84 analyzer, and requested EPA to allow additional time to develop specifications consistent with California's BAR–90

analyzer. In a letter dated February 22, 1989, EPA accepted Missouri's request for additional time. The state completed its implementation of computerized analyzers on December 1, 1990.

II. Clean Air Act Requirements

Pursuant to the 1977 Act, MERR for I/M was based on the evaluation of national averages of different emission reduction sources such as antitampering, antimisfueling, and tailpipe inspections. Also included in the evaluation was the already existing New Jersey I/M program. The New Jersey program was used as a model for other I/M programs, and was used to establish minimum performance standards for programs, i.e., MERR. Therefore, other programs were required to achieve at least the emission reductions achievable by the New Jersey program. The aforementioned 1977 House Report was based on EPA's findings from the New Jersey I/M program.

Pursuant to section 172(b)(11)(B) of the 1977 Clean Air Act, EPA approved the St. Louis, Missouri, I/M program on August 12, 1985 (50 FR 32411). Requirements for an I/M program were outlined in the EPA final policy, "Approval of 1982 Ozone and Carbon Monoxide Plan Revisions for Areas Needing an Attainment Date Extension," published January 22, 1981 (46 FR 7781). A discussion of how the St. Louis I/M program satisfied the requirements was published on February 11, 1985 (50 FR 5630).

On November 6, 1991, EPA designated the St. Louis metropolitan area as a moderate ozone nonattainment area (56 FR 56694). Also, the area bounded by the Mississippi River and the Interstate 270 loop was designated as a CO nonattainment area.

Section 182(b)(4) of the Act requires moderate ozone nonattainment areas to implement an I/M program. The program must be consistent with the requirements of section 182(a)(2)(B), which is the savings clause for vehicle I/M programs. The I/M savings clause requires implementation of an I/M program which is no less stringent than that of either the 1977 House Report (discussed previously herein) or the program already included in the SIP, whichever is more stringent. In accord with section 182(a)(2)(B)(ii) of the Act, EPA is presently its revising guidance for I/M programs. Based on the final guidance, EPA will require appropriate changes, as necessary, to the St. Louis I/M program.

III. Review of State Submittal

On June 28, 1991, the state of Missouri submitted specifications for computerized I/M analyzers as a SIP revision. The analyzers have several integrity checks which will provide a means for quality control/quality assurance. The analyzers were designed to eliminate the handwritten forms, which often resulted in improperly conducted inspections. The analyzers provide a basis for proper testing, since they provide step-by-step instruction. Provided below is a brief discussion of each rule action contained in the state submittal. The rule actions were adopted by the MSHP after proper notice and public hearing and became effective on June 28, 1990. As noted previously, EPA has reviewed these changes to the St. Louis I/M program in the context of the 1977 House Report and the program previously aproved on February 11, 1985.

(1) General Specifications, Rule 11 CSR 50–2.401

This rule describes the general specification used to perform emissions inspections on motor vehicles in specified areas of the state. The Missouri Analyzer System (MAS) was designed with an open-architecture computer, so the software can be modified and updated as necessary. The features of the MAS include:

a. Vehicular emission measurements of hydrocarbon, carbon monoxide, and carbon dioxide. Oxygen is offered as an option.

b. Engine RPM measurements

c. Exhaust dilution determinations

d. A bar code scanner for data entry

e. A dedicated printer for vehicle inspection reports or other general purpose printouts other than state inspection forms.

(2) MAS Software Function, Rule 11 CSR 50–2.403

The purpose of the rule is to describe the software functions of the MAS. A microcomputer controls the inspection sequence and equipment processes. Inspectors are prompted through a sequential series of screens.

The system also provides integrity checks. These checks are done by requiring the inspector to enter a personal identification code and the license plate number of the car being inspected before a state inspection can begin. The inspector code is given only to certified inspectors. A certified inspector must have a valid permit issued by the MSHP. Therefore, if the code entered is not linked to a certified inspector, the system will automatically abort the inspection process.

(3) MAS Display and Program Requirements, Rule 11 CSR 50–2.403.

Computer screen displays and the software programming requirements of the MAS are described in this rule. Once a valid inspector code has been entered, the screen displays a series of prompts for the state inspection test sequence.

(4) Test Record Specifications, Rule 11 CSR 50–2.404

This rule documents all vehicle identification and inspection data information gathered during the inspection and emission test.

(5) Vehicle Inspection Certificate, Vehicle Inspection Report and Printer Function Specifications, Rule 11 CSR 50–2.405

This rule describes the vehicle inspection certificate, vehicle inspection report, and printer functions for the MAS. The system uses one printer for printing inspection certificates and a second printer for the vehicle inspection reports and general printing. The second printer gives the consumer a detailed printout of the inspection with a listing of inspected items and the results of the inspection. The direct printout is beneficial to the I/M program; the results are directly transferred to the printer and are printed without human intervention.

(6) Technical Specifications for the MAS, Rule 11 CSR 50–2.406

This is a description of the technical specifications and maintenance functions programmed to be automatically performed by the analyzer, operating conditions, and hardware. This rule outlines the automated calibration specifications. This is done with an automatic zero and span check. These specifications also provide for gas calibration and leak checks on the analyzers.

(7) Documentation, Logistics, and Warranty Requirements, Rule 11 CSR 50–2.407

This rule describes the documentation, logistics, warranty requirements, and warranty provisions. Analyzers are provided with an instruction manual and warranty reference materials.

(8) Inspection Station Licensing, Rule 11 CSR 50–2.370

This rule outlines the minimum requirements for licensing emission inspection stations. It was amended to be consistent with the new analyzer specifications and to define the

requirements for qualifying as a state inspector.

(9) Vehicles Failing Reinspection, Rule 11 CSR 50–2.410

This rule gives inspection stations an outline of procedures to be followed when a vehicle fails reinspection. Amendments to this rule specify the forms to be used to record low emission tune-ups and the procedures for keeping such records.

(10) Procedures for Conducting Only Emission Tests, 11 CSR 50–2.420

This rule pertains to vehicles which have a valid safety inspection certificate and need only an emissions test. The amendment to this rule specifies the standardized form which is used when conducting an emissions only test.

(11) Emission Test Procedures, Rule CSR 50–2.400

This rule contained specifications for the emissions analyzers previously used in the I/M program. This rule was superseded by newer specifications; therefore, the state has rescinded it.

EPA Action

EPA proposes to approve the revised I/M analyzer specifications as a revision to the Missouri SIP. Since the St. Louis I/M program is incorporated into an existing statewide safety inspection program, the state submittal contains rule revisions purusant to the safety portion of the inspection program. The applicable requirements of the CAA pertain only to I/M programs, not to vehicle safety programs. Therefore, EPA proposes to approve the state submittal only insofar as it pertains to the emissions portion of the Missouri vehicle inspection program.

The EPA is soliciting public comments on this notice and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments to the address above.

Nothing in this aciton should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), EPA certifies that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). EPA has submitted a request for a permanent waiver for Tables 2 and 3 SIP revisions from the requirements of Section 3 of Executive Order 12291. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Ozone, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7642

Dated: June 8, 1992.

Morris Kay,

Regional Administrator.

[FR Doc. 92–14680 Filed 6–22–92; 8:45 am]

BILLING CODE 6560–50–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub–No. 26B)]

Industrial Development Activities Exemption—Non-Exempt Agricultural Shippers

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rule; supplemental notice.

SUMMARY: On April 8, 1992 at 57 FR 11929, the Commission published a notice of proposed rulemaking in Ex Parte No. 346 (Sub–No. 26B) further investigating whether an exemption for certain market development activities from the anti-rebating provisions of the Interstate Commerce Act should be revoked or modified by the adoption of special disclosure and/or documentation requirements for activities related to movement of agricultural commodities not exempt from the commission's regulations. When we published this notice, we omitted a Regulatory Flexibility Analysis. By this supplemental notice, we are providing a Regulatory Flexibility Analysis. See "**SUPPLEMENTARY INFORMATION**" below.

DATES: Any party may comment on the Regulatory Flexibility Analysis appearing below at any time before the due date set in the prior notice for filing reply comments 60 days from service of the service list. Comments must be served on all parties or record.

ADDRESSES: Send an original and 10 copies of all comments to: Office of the Secretary, Case Control Branch, Attn: Ex Parte No. 346 (Sub–No. 26B), Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 927–5660, (TDD for hearing impaired: (202) 927–5721).

SUPPLEMENTARY INFORMATION: In another proceeding, Ex Parte No. 346 (Sub–No. 26), 57 FR 11912 (April 8, 1992), the Commission simultaneously adopted a final rule exempting as a class certain market development activities from the anti-rebating provisions of the Interstate Commerce Act, 49 U.S.C. 10761(a), 10762(a)1), 11902, 11903, and 11904(a), originally enacted as the Elkins Act. This allows railroads to engage in these pre-movement, non-transportation activities without fear of prosecution. In Ex Parte No. 346 (Sub–No. 26B), the Commission is investigating whether the exemption granted in Ex Parte No. 346 (Sub–No. 26) should be revoked or modified by the adoption of special disclosure and/or documentation requirements for activities related to movements of agricultural commodities that are not exempt from our regulation.

Regulatory Flexibility Analysis

We find that the result of our investigation in Ex Parte No. 346 (Sub–No. 26B), whatever it may be, cannot have a significant effect on a substantial number of small entities. We are commencing this investigation because some parties in Ex Parte No. 346 (Sub–No. 26) alleged that special considerations apply for market development activities involving agriculture shippers and that such shippers require special protection from the effects of an exemption. If the exemption granted in Ex Parte No. 346 (Sub–No. 26) is retained for non-exempt agricultural commodities, a significant impact in small entities will not occur, for the reasons stated in our decision in that proceeding: see Association Of American Railroads—Pet. To Exempt, 8 I.C.C.2d 365, 386 (1992). If the exemption granted in Ex Parte No. 346 (Sub–No. 26) is revoked or modified for non-exempt agricultural commodities, shippers and carriers of such commodities will be returned to the position that they were in before the exemption was granted. When the exemption was granted, shippers and carriers of such commodities were put on notice that the exemption could soon be modified for them as a result of the investigation that was simultaneously being commenced in Ex Parte No. 346 (Sub–No. 26B).

Additional Information

Additional information is contained in the Commission's decision in Ex Parte No. 346 (Sub–No. 26). That decision contains our preliminary conclusions and discusses the factual and legal issues that the parties should address in this proceeding. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 927–5721.)

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Intermodal transportation, Manufactured commodities, Railroads.

Authority: 49 U.S.C. 10505; 5 U.S.C. 553.

Decided: June 16, 1992.

By the Commission, Chairman Philbin, Vice Chairman, McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–14735 Filed 6–22–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217 and 227

Threatened Fish and Wildlife; Threatened Marine Reptiles; Revisions To Enhance and Facilitate Compliance With Sea Turtle Conservation Requirements Applicable to Shrimp Trawlers; Restrictions Applicable to Shrimp Trawlers and Other Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of public hearings.

SUMMARY: On April 30, 1992 (57 FR 18446), NMFS issued a proposed rule that would amend the regulations protecting sea turtles (50 CFR parts 217 and 227, subpart D). Under the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations implemented thereunder, it is unlawful to take sea turtles. The incidental taking of turtles during scientific research and fishing is exempted from the prohibitions in certain specified circumstances. Shrimp trawlers in the southeastern Atlantic and Gulf of Mexico are so exempted if they employ specified measures (see turtle conservation measures) to reduce the mortality of sea turtles incidentally taken.

NMFS has revised the schedule for public hearing on this proposed rule to include additional hearings.

DATES: Comments on the proposed rule will be accepted until July 29, 1992. Public hearings are scheduled as follows:

1. June 22, 1992, at 7 p.m.–11 p.m., Port Arkansas, TX;
2. June 23, 1992, at 7 p.m.–11 p.m., Pasadena, TX;
3. June 24, 1992, at 2 p.m.–6 p.m., Thibodaux, LA;
4. June 25, 1992, at 7 p.m.–11 p.m., Mobile, AL;
5. June 30, 1992, at 7 p.m.–11 p.m., St. Petersburg, FL;
6. July 9, 1992, at 7 p.m.–11 p.m., Charleston, SC;
7. July 10, 1992, at 7. p.m.–11 p.m., Brunswick, GA;
8. July 16, 1992, at 3 p.m.–7 p.m., Morehead City, NC;
9. July 17, 1992, at 7 p.m.–11 p.m., Manteo, NC;
10. July 23, 1992, at 7 p.m.–11 p.m., Lake Charles, LA;
11. July 24, 1992, at 7 p.m.–11 p.m., Biloxi, MS.

ADDRESSES: Send written comments to Dr. Nancy Foster, Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, MD. 20910.

The hearings will be held at the following locations:

1. Port Arkansas Civic Center, 710 West Avenue A, Port Arkansas, TX.
2. San Jacinto College, Slocomb Auditorium, 8060 Spencer Highway, Pasadena, TX.
3. Thibodeaux Civic Center, 310 North Canal Boulevard, Thibodaux, LA.
4. Mobile Civic Center, 401 Civic Center Drive, Mobile, AL.
5. University of South Florida, Bayboro Campus, Campus Activities Center, 140 7th Avenue South (Corner of 2nd Street & 6th Avenue South), St. Petersburg, FL.
6. South Carolina Wildlife & Marine Resource Dept., 217 Fort Johnson Road, Charleston, SC.
7. National Guard Armory, 3100 Norwick Street, Brunswick, GA.
8. West Carteret High School, Route 2, Box 390, Country Club Road, Morehead City, NC.
9. North Carolina Aquarium, Box 967, Airport Road, Manteo, NC.
10. Burton Coliseum, 6400 South Common, Lake Charles, LA.
11. J.L. Scott Marine Educational Center, 115 Beach Blvd., Biloxi, MS.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, Chief, Protected Species Program, NMFS Southeast Regional Office, 813–893–3366, or Phil Williams, NMFS National Sea Turtle Coordinator, 301–713–2322.

Date: June 17, 1992.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 92–14658 Filed 6–22–92; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 57, No. 121
Tuesday, June 23, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

National Commission on Wildfire Disasters

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The next meeting for the National Commission on Wildfire Disasters is scheduled for June 26–27, 1992. The Commission is authorized by the Wildfire Disaster Recovery Act of 1989.

DATES: The meeting will convene at 7:30 a.m. on Friday, June 26, 1992, and adjourn Saturday evening, June 27, 1992.

ADDRESSES: The meeting will be held at the Circus-Circus Hotel, 500 North Sierra Street, Reno, Nevada 89503. The meeting room location may be obtained by calling the Hotel at (702) 329–0711.

FOR FURTHER INFORMATION CONTACT: Dennis W. Pendleton, Fire and Aviation Management Staff, Forest Service, (202) 205–1511.

SUPPLEMENTARY INFORMATION: The Wildfire Disaster Recovery Act of 1989 established a Commission to study the effects of disastrous wildfires, resulting from natural or other causes, and to make recommendations concerning the steps necessary for a smooth and timely transition from the loss of natural resources due to such fires. The Commission is composed of 25 members, 13 appointed by the Secretary of Agriculture and 12 appointed by the Secrtary of the Interior. The Act directs the Commission to submit to the Secretaries of Agriculture and the Interior a report containing its findings and recommendations.

The purpose of the meeting is to:

(1) Conduct a field trip displaying rural/urban fire problems;

(2) Evaluate the accrued contributions for the Commission from interested persons, groups, and entities to determine if there is a sufficient amount to support the work of the Commission;

(3) Determine the process, duties, and course of action needed to complete the work of the Commission;

(4) Appoint and fix the compensation of such additional personnel as the Commission determines necessary to assist it to carry out its duties and functions;

(5) Determine and appoint work assignments for the Commission members and

(6) Set a date and place for the next meeting of the Commission.

Dated: June 16, 1992.

Alan West,

Deputy Chief, State & Private Forestry.

[FR Doc. 92–19716 Filed 6–22–92; 8:45 am]
BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Business Development Center Applications: Raleigh/Durham, NC

June 16, 1992.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: In accordance with Executive Order 11625, the U.S. Department of Commerce's Minority Business Development Agency (MBDA) is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3-year period, subject to Agency priorities, recipient performance, and the availability of funds. The cost of performance for the first budget period (12 months) is $188,867 in Federal funds and a minimum of $33,329 in non-Federal (cost-sharing) contributions. This federal amount includes $4,607 for an annual audit. Cost-sharing contributions may be in the form of cash contributions, client fees, in-kind contributions or combinations thereof. The period of performance will be from November 1, 1992 to October 31, 1993. The MBDC will operate in the Raleigh/Durham, North Carolina geographic service area.

The award number for this MBDC will be 04–10–93001–01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, State and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can identify and coordinate public and private sector resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority businesses.

Applications will be evaluated initially by regional staff on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodologies) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive. The selection of an application for further processing by MBDA will be made by the Director based on a determination of the application most likely to further the purpose of the MBDC program. The application will then be forwarded to the Department for final processing and approval, if appropriate. The Director will consider past performance of the applicant on previous Federal awards.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. To assist them in this effort, MBDCs may charge client fees for management and technical assistance (M&TA) rendered. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less, and 35% of the total cost for firms with gross sales of over $500,000. False information on the

application can be grounds for denying or terminating funding.

MBDCs performing satisfactorily may continue to operate after the initial competitive year for up to 2 additional budget periods. MBDCs with year-to-date "commendable" and "excellent" performance ratings may continue to be funded for up to 3 or 4 additional budget periods, respectively. Under no circumstances shall an MBDC be funded for more than 5 consecutive budget periods without competition. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's performance, the availability of funds and Agency priorities.

Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

In accordance with OMB Circular A-129 "Managing Federal Credit Programs," applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements, satisfactory to the Department of Commerce, are made to pay the debt.

Applicants are subject to Government Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26.

The Departmental Grants Officer may terminate any grant/cooperative agreement in whole or in part at any time before the date of completion whenever it is determined that the MBDC has failed to comply with the conditions of the grant/cooperative agreement. Examples of some of the conditions which can cause termination are failure to meet cost-sharing requirements; unsatisfactory performance of MBDC work requirements; and reporting inaccurate or inflated claims of client assistance or client certification. Such inaccurate or inflated claims may be deemed illegal and punishable by law.

Notification must be provided that all non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or is presently facing, criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

On November 18, 1988, Congress enacted the Drug-Free Workplace Act of 1988 (Public Law 100-690, title V, subtitle D). The statute requires contractors and grantees of Federal agencies to certify that they will provide a drug-free workplace. Pursuant to these requirements, the applicable certification form must be completed by each applicant as a pre-condition for receiving Federal grant or cooperative agreement awards.

15 CFR, part 28, is applicable and prohibits recipients of Federal contracts, grants, and cooperative agreements from using appropriated funds for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a specific contract, grant or cooperative agreement. Form CD-511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying" and, when applicable, the SF-LLL, "Disclosure of Lobbying Activities," are required.

CLOSING DATE: The closing date for submitting an application is July 24, 1992. Applications must be postmarked on or before July 24, 1992. Proposals will be reviewed by the Washington Regional Office. The mailing address for submission of RFA responses is: U.S. Department of Commerce, Washington Regional Office, Minority Business Development Agency, 14th & Constitution Avenue, NW., room 6711, Washington, DC 20230.

A pre-application conference to assist all interested applicants will be held on July 10, 1992, 9 a.m. at the following address: U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., room 1715, Atlanta, Georgia 30308.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372, "Intergovernmental Review of Federal Programs," is not applicable to this program. To order a Request for Application (RFA) and to receive additional information, contact: Carlton L. Eccles, Regional Director of the Atlanta Regional Office on (404) 730-3300 or U.S. Department of Commerce, Minority Business Development Agency, 401 West Peachtree Street, NW., room 1715, Atlanta, Georgia 30308.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Carlton L. Eccles,

Regional Director.

[FR Doc. 92-14717 Filed 6-22-92; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Marine Mammals; Withdrawal of Application; Elizabeth Mathews (P323A)

On July 23, 1991, notice was published in the **Federal Register** (56 FR 141) that an application has been filed by Elizabeth A. Mathews, University of Alaska Southeast, Department of Education, Liberal Arts and Science, 11120 Glacier Hwy., Juneau, AK 99801 to take by harassment during the course of photo-identification studies up to 300 humpback whales (*Megaptera novaeangliae*) in Hawaii and 400 in Alaska. The application also requested opportunistic photo-identification of killer whales (*Orcinus orca*) in southeast Alaska.

Notice is hereby given that on June 15, 1992 the application was withdrawn and the withdrawal request has been acknowleged and accepted without prejudice by the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service 1335 East West Hwy., room 7324, Silver Spring, MD 20910, (301-713-2289);

Director, Alaska Region, National Marine Fisheries Service, Federal Annex, 9109 Mendenhall Mall Road, Suite 6, Juneau, AK 99802 (907-586-7221);

Director, Southwest Region, National Marine Fisheries Service 501 W. Ocean Boulevard, suite 4200, Long Beach, CA 90802-4213; and

Coordinator, Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, HI 96822-2396 (808/955-8831).

Dated: June 15, 1992.

Nancy Foster,

Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-14659 Filed 6-22-92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Request for Modification of Permit (P349A).

Notice is hereby given that Elizabeth A. Mathews, University of Alaska Southeast, School of Education, Liberal

Arts and Science, 11120 Glacier Highway, Juneau, AK 99801 is requesting a modification of Permit No. 698 issued in February 16, 1990 (55 FR 6815), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216). The Permit authorized the conduct of photo-identification studies on up to 600 humpback whales (*Megaptera novaeangliae*) in Hawaii and up to 400 humpback whales in Alaska through December 31, 1994. The permit was modified on August 21, 1990 (55 FR 35165) to authorize, among other things, opportunistic photo-identification studies of various species of cetaceans, including 80 killer whales (*Orcinus orca*), during the conduct of scientific research on humpback whales

The Permittee is now requesting that the Permit be modified to increase the number of killer whales authorized to be incidentally harassed during photo-identification studies from 80 to up to 120 animals.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this modification request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification request are available for review by interested persons in the following offices:

By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20901 (301/713–2289);

Director, Alaska Region, National Marine Fisheries Service, Federal Annex, 9109 Mendenhall Mall Road, suite 6, Juneau, AK 99802 (907–586–7221);

Director, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213; and

Coordinator, Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, HI 96822–2396 (808/955–8831)

Dated: June 15, 1992.

Nancy Foster,

Office of Protected Resources and Habitat Programs, National Director, Marine Fisheries Service.

[FR Doc. 92–14660 Filed 6–22–92; 8:45 am]

BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

Commodity Exchange, Inc., Proposed Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures and option contracts.

SUMMARY: The Commodity Exchange, Inc. (Comex or Exchange) has applied for designation as a contract market in platinum futures, palladium futures, and platinum futures options. The Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATE: Comments must be received on or before July 23, 1992.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the Comex platinum futures, Comex palladium futures, or Comex platinum futures option contract.

FOR FURTHER INFORMATION CONTACT: Please contact Richard Shilts of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone 202–254–7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the Exchange in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8

Any person interested in submitting written data, views, or arguments on the terms and conditions, or with respect to other materials submitted by the exchange in support of the applications, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on June 17, 1992.

Gerald D. Gay,

Director.

[FR Doc. 92–14666 Filed 6–22–92; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Proposed Raising of the Existing Dike Elevations of the Corps of Engineers' Confined Disposal Facility at Toledo Harbor, OH

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Additional containment capacity is required at Toledo Harbor, Lucas County, Ohio, to confine dredged material which has been determined to be unsuitable for open-lake discharge into Maumee Bay. Construction of a new confined disposal facility adjacent to the existing Corps of Engineers' CDF at the harbor is scheduled for construction in Fall 1992 and completion in Fall 1994. In the event this project experiences unavoidable construction delays, interim measures must be implemented

to provide additional confinement capacity for dredged material and maintain the economic viability of Toledo Harbor. Therefore, a range of various dike elevations and configurations will be evaluated as a means of increasing the capacity of the existing CDF. At its current rate of filling, this CDF will be at capacity in 1995.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action can be answered by: William E. Butler, Community Planner, Environmental Analysis Section, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, NY 14207–3199, Telephone Number: 716–879–4175.

SUPPLEMENTARY INFORMATION:

1. *Proposed Action.* Plans which will be considered in detail include an evaluation of raising the CDF's dike elevations to heights of 5 to 25 feet above their existing elevation. The new dikes would be constructed along the interior of the CDF's existing walls with compacted earth fill. Various foundations and slope angles will be evaluated in the design analysis.

2. *Alternatives.* Alternative plans for the disposition of dredged material from Toledo Harbor which will be addressed in the DEIS include open-lake, onshore and upland discharge, construction of a new CDF, beneficial uses (e.g., habitat creation, shoreline protection), and reuse of material in existing CDFs to provide additional capacity. A "No-Action" alternative will also be considered.

3. *Scoping Process.*

a. To date, various Federal, State and local planning and resource management agencies and organizations have been consulted to determine the scope of issues to be addressed and identify the significant issues related to the proposed action. Among these issues which will be analyzed in depth in the DEIS are: water quality and public water supplies; sediment quality; aesthetics; cultural resources; fish and wildlife resources; commercial navigation; and land use. A scoping meeting is not planned at this time; however, interested parties are urged to participate actively in the scoping process by submitting their concerns to the Buffalo District office as soon as possible.

b. In accordance with the Clean Water Act, a Section 404(a) Public Notice and Section 404(b)(1) Evaluation will be included with the DEIS which will evaluate the discharge of dredged and fill material associated with dike construction, dredged material placement into the new CDF, and effluent discharge through the CDF weir(s). In addition, a Cultural Resources Assessment will be prepared which will focus particular attention on an evaluation of the to-be-selected dike material borrow area(s) and the possibility of encountering significant historic properties or archaeological sites during project construction.

4. The DEIS is expected to be available for public and agency review in September 1992.

John W. Morris,

Colonel, U.S. Army, Commanding.

[FR Doc. 92–14704 Filed 6–22–92; 8:45 am]

BILLING CODE 3710–GP–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER92–618–000, et al.]

Interstate Power Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Interstate Power Co.

[Docket No. ER92–618–000]

June 15, 1992.

Take notice that on June 8, 1992, Interstate Power Company (IPW) tendered for filing Amendment No. 1 to the Electric Service Agreement between the Public Utilities Commission of the City of Truman and Company. This Amendment provides for changes in the City's Supplier, input description and transmission loss factors.

Comment date: June 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

2. PacifiCorp

[Docket No. ER92–554–000]

June 15, 1992.

Take notice that PacifiCorp on June 1, 1992, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, an Amended Filing to its filing of Transmission Service and Operating Agreements (Agreements) between PacifiCorp and Deseret Generation and Transmission Co-Operative (Deseret) and PacifiCorp and Utah Associated Municipal Power Systems (UAMPS) dated May 1, 1992 and May 7, 1992 respectively.

PacifiCorp restates its request that an effective date of July 1, 1992 be assigned to the Agreements.

Copies of this filing were supplied to Deseret, UAMPs, the Public Utility Commission of Oregon and the Utah Public Service Commission.

Comment date: June 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power & Light Co.

[Docket No. ER92–622–000

June 15, 1992.

Take notice that on June 8, 1992, Florida Power & Light Company (FP&L) amended its prior filing in this docket by withdrawing the Service Schedules A and B between FP&L and the Oglethorpe Power Corporation (Oglethorpe) that had been tendered previously.

FP&L continues to propose an effective date of the earlier of July 20, 1992, or the date of acceptance for filing, for the Contract for Interchange Service, the Service Schedules C, D, G, and J, and the Letters of Commitment under Service Schedules G and J that were also tendered previously in this docket.

Copies of the filing have been served on Oglethorpe and the Public Service Commissions of Georgia and Florida.

Comment date: June 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

4. The Montana Power Co.

[Docket No. ER92–294–000]

June 15, 1992.

Take notice that on June 1, 1992, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission an Amendment 2 to its original filing of a revised Index of Purchasers under FERC Electric Tariff, 2nd Revised Volume No. 1 (M–1 Tariff). This Amendment 1 provides additional information requested by Commission staff.

A copy of the filing was served upon Turlock Irrigation District, Western Area Power Administration (Loveland), Western Area Power Administration (Salt Lake City—for Montrose), and Deseret Generation and Transmission Co-operative.

Comment date: June 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power & Light Co.

[Docket No. ER92–605–000]

June 15, 1992.

Take notice that on June 2, 1992, Florida Power & Light Company (FPL) filed the Contract for Purchases and Sales of Scheduled Power and Energy between Florida Power & Light Company and Orlando Utilities Commission. FPL requests an effective date of July 1, 1992.

Comment date: June 26, 1992, in accordance with Standard Paragraph E at the end of this notice.

6. Northern Indiana Public Service Co.

[Docket No. ER92-599-000]

June 15, 1992.

Take notice that on June 1, 1992, Northern Indiana Public Service Company tendered for filing Ninth Revised Sheet No. 3 to its FERC Electric Service Tariff—Fourth Revised Volume No. 1 which has been revised to make corrections in the location of delivery points and Interconnections with other utilities. Northern Indiana Public Service Company also tenders for filing the following:

Tenth Supplemental Agreement, dated March 10, 1992, to the Interconnection Agreement between Northern Indiana Public Service Company and the Wabash Valley Power Association, Inc., dated April 16, 1984, covering the terms and conditions of Northern Indiana Public Service Company making improvements to its existing system which will provide for improved service at the North Judson delivery point of Wabash Valley Power Association, Inc.

Copies of this filing were served upon all customers receiving electric service under Northern Indiana Public Service Company's FERC Electric Service Tariff—Fourth Revised Volume No. 1 and the Indiana Utility Regulatory Commission.

Northern Indiana Public Service Company requests an effective date of May 1, 1992, for the Tenth Supplemental Agreement as that is the proposed in service date for the upgraded facilities and the Exhibit A, and, therefore requests waiver of the Commission's notice requirements.

Comment date: June 29, 1992, in accordance with Standard Paragraph E end of this notice.

7. Idaho Power Co.

[Docket No. ER92-598-000]

June 15, 1992.

Take notice that on June 1, 1992, Idaho Power Company (IPC) tendered for filing a revised exhibit entitled Monthly Contract Demand and Associated Energy Values with regard to IPC's Agreement for Supply of Power and Energy between Idaho Power Company and Utah Associated Municipal Power Systems, dated February 10, 1988, FERC Rate Schedule No. 75.

Idaho Power has requested waiver of the notice provisions of Section 35.3 of the Commission's regulations in order to permit the revised exhibit to become effective on June 1, 1992.

Comment date: June 29, 1992, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Power & Light Co.

[Docket No. EL89-48-001]

June 16, 1992.

Take notice that on June 10, 1992, Wisconsin Power and Light Company filed with the Commission additional supplemental information in response to information requests made by Commission staff. The Supplemental filing relates to data relied upon in the development and execution of the Settlement Agreement on file between Wisconsin Power and Light Company and its customers in this docket.

Comment date: June 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

9. Florida Power & Light Co.

[Docket No. ER92-636-000]

June 16, 1992.

Take notice that on June 11, 1992, Florida Power & Light Company (FPL) tendered for filing Amendment Number One To Florida-Southern Transmission Interface Allocation Agreement Among Florida Power & Light Company, Florida Power Corporation, Jacksonville Electric Authority, and City of Tallahassee, Florida (Amendment). FPL requests that the Amendment be made effective June 1, 1992.

Comment date: June 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

10. Philadelphia Electric Co.

[Docket No. ER92-632-000]

June 16, 1992.

Take notice that on June 10, 1992, Philadelphia Electric Company (PE) tendered for filing as an initial rate under Section 205 of the Federal Power Act and part 35 of the regulations issued thereunder, an Agreement between PE and Allegheny Electric Cooperative Inc. (Allegheny) dated June 4, 1992.

PE states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to Allegheny. PE requests that the Commission allow this Agreement to become effective on August 17, 1992.

PE states that a copy of this filing has been sent to Allegheny and will be furnished to the Pennsylvania Public Utility Commission.

Comment date: June 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison Co.

[Docket No. ER92-431-000]

June 16, 1992.

Take notice that on June 12, 1992, Southern California Edison Company (Edison) tendered for filing additional support for the Revenue Comparison's contained in Exhibits R1 and R2 in Docket Nos. ER92-431-000 and ER92-433.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: June 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

12. Florida Power & Light Co.

[Docket No. ER92-634-000]

June 16, 1992.

Take notice that on June 11, 1992, Florida Power & Light Company (FPL) tendered for filing Amendment Number One to Joint Ownership Party Allocation Agreement between Florida Power & Light Company and Jacksonville Electric Authority (Amendment). FPL requests that the Amendment be made effective June 1, 1992.

Comment date: June 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of New Hampshire

[Docket No. ER92-634-000]

June 16, 1992.

Take notice that on June 11, 1992, Public Service Company of New Hampshire (PSNH) filed an Amendment to its Service Agreement No. 23 under FERC Electric Tariff, First Revised Volume No. 1 for non-firm transmission service to the Littleton Municipal Light Department (Littleton). PSNH states that the purpose of the Amendment is to establish Littleton as an Eligible Entity under the Settlement in Docket Nos. ER89-207-004 and EL91-45-000. The Amendment is proposed to become effective on January 2, 1992.

Comment date: June 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

14. Entergy Services, Inc.

[Docket No. ER91-569-002]

June 16, 1992.

Take notice that Entergy Services, Inc. (ESI) as agent for Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power and Light Company, and New Orleans Public Service Inc. on June 11, 1992, tendered for filing an amendment to its compliance filing in this docket, which was filed on June 1, 1992. ESI's compliance filing includes a system-wide Transmission Service Tariff (Tariff). ESI amends its compliance filing by revising (1) the formulas for calculating the maximum hourly and daily rates for Non-firm Transmission

Service that are set out in Attachment B to the Tariff and (2) the actual calculation of the maximum rates for hourly and daily Non-firm Transmission Service specified in the compliance filing. ESI in its filing reiterates its request that the Tariff be made effective on July 1, 1992.

Comment date: June 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

15. Florida Power & Light Co.

[Docket No. ER92-633-002]

June 16, 1992.

Take notice that on June 11, 1992 FPL filed the Contract for Purchases and Sales of Scheduled Power and Energy Between Florida Power & Light Company and the Utility Board of the City of Key West, Florida. FPL requests an effective date of July 1, 1992.

Comment date: June 30, 1992, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14668 Filed 6-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-4-1-000]

Alabama-Tennessee Natural Gas Company; Proposed PGA Rate Adjustment

June 17, 1992.

Take notice that on June 12, 1992, Alabama-Tennessee Natural Gas Company ("Alabama-Tennessee"), Post Office Box 918, Florence, Alabama 35631, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet.

31st Revised Sheet No. 4

Alabama-Tennessee states that this filing is a resubmission of its filing which it made on May 29, 1992 in Docket No. TQ92-3-1 and which the Commission rejected by letter order issued June 10, 1992 ("June 10 Letter Order") because Alabama-Tennessee's Schedule G2, Record Type 01 contained no data and could not be processed. Alabama-Tennessee states that, but for the correction of the omitted electronic data, its resubmitted filing is the same as the May 29, 1992 filing in all material respects. Alabama-Tennessee requests a waiver of § 154.22 of the Commission's Regulations in order to permit its revised tariff sheet to become effective July 1, 1992.

Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the rates of its suppliers and to reflect certain transportation costs as purchased gas costs as permitted under the Commission's order issued on February 7, 1992 in Docket No. RP92-87-000 (58 FERC ¶ 61,130). In addition to a waiver of Section 154.22 of the Commission's Regulations, Alabama-Tennessee has requested any other waivers of the Commission's Regulations that may be necessary to permit the tariff sheet to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional sales and transportation customers and affected state regulatory commission along with a copy of the Commission's June 10 Letter Order.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14767 Filed 6-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM92-9-21-001 and RP91-41-000, et al.]

Columbia Gas Transmission Conference to Discuss Settlement

June 17, 1992.

Pursuant to the Commission's order issued on June 2, 1992, an informal conference will be held to explore the possibility of settlement of the issue raised in the above-captioned proceeding. All parties should come prepared to discuss settlement, and the parties should be represented by principals who have the authority to commit to a settlement. The conference will be held on Thursday, July 2, 1992 at 9:30 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14768 Filed 6-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP91-143-016 and RP92-159-001]

Great Lakes Gas Transmission Limited Partnership; Proposed Changes in FERC Gas Tariff

June 17, 1992.

Take notice that Great Lakes Gas Transmission Limited Partnership ("Great Lakes"), on June 12, 1992, tendered to the Federal Energy Regulatory Commission ("Commission") for filing as part of its FERC Gas Tariff, Original Volumes Nos. 2 and 3, the following tariff sheets:

Orginal Volume No. 2

Substitute Alternate Seventh Revised Sheet No. 53-G

Orginal Volume No. 3

Substitute Alternate First Revised Sheet No. 2-A
Second Substitute Fifth Revised Sheet No. 3
Substitute Alternate Sixth Revised Sheet No. 3

Except for Second Substitute Fifth Revised Sheet No. 3, which is proposed to become effective as of January 1, 1992, the revised tariff sheets are proposed to become effective as of May 1, 1992.

Great Lakes states that the revised tariff sheets are being filed to comply with the Commission's Order on Compliance Filing issued on May 28, 1992 in Docket Nos. RP91-143-013 and RP92-159-000 ("Order") wherein Great

Lakes was required to file revised tariff sheets to eliminate any charge to recover under-collections of Transporter's Use gas for past periods.

Great Lakes further states that its filing is being made under protest and without prejudice to the Commission's acceptance of Great Lakes' primary tariff sheets filed on April 28, 1992 in Docket Nos. RP91-143-013 and RP92-159-000, following the conclusion of the technical conference ordered in this proceeding, or upon rehearing or judicial review of the Commission's orders herein. Great Lakes also states that by its filing, it is providing each of its customers with notice of its position that such primary tariff sheets should have been accepted by the Commission for filing as further compliance with Opinion No. 367.

Great Lakes states that copies of this filing were posted and served on all of its customers, upon the Public Service Commissions of the States of Minnesota, Michigan, and Wisconsin, and upon all parties listed on the service list maintained by the Commission's Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before June 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14769 Filed 6-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-119-013]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

June 17, 1992.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on June 15, 1992 tendered for filing as part of its FERC Gas Tariffs, Fifth Revised Volume No. 1 and Original Volume No. 2, six copies each of the tariff sheets listed on Appendix A attached to the filing.

Texas Eastern states that by its "Order On Settlement" issued April 15, 1992, the Federal Energy Regulatory Commission approved Texas Eastern Transmission Corporation's (Texas Eastern) August 19, 1991, Stipulation and Agreement (Agreement) in the subject dockets as supplemented on December 10, 1991, which Agreement resolves the cost of service issues in those dockets with the exception of those items reserved for hearing as set forth in Article III of the Agreement.

Texas Eastern states that Article II of the Agreement provides that Texas Eastern will file revised tariff sheets as set forth in the appendices to the Agreement within thirty (30) days after the date the Commission's order approving the Agreement becomes final and no longer subject to rehearing. As a result of the April 15, 1992 order becoming a final order on May 15, 1992, Texas Eastern herewith submits for filing as part of its currently effective FERC Gas Tariffs, Fifth Revised Volume No. 1 and Original Volume No. 2, an original and fourteen copies of the tariff sheets listed in Appendix A of the filing.

Texas Eastern states that the tariff sheets listed in Appendix A of the filing reflect adjusted base tariff rates to be effective for the period December 1, 1990 to-date. As defined in Section 1 of Article II of the Agreement the term "Acceptance Date" means "the first day of the first month following the date upon which a notice or order of the Commission accepting for filing that tariff sheet becomes no longer subject to rehearing by the Commission". Thus assuming the Commission issues an order on this filing prior to July 31, 1992 and no requests for rehearing are filed, the "Acceptance Date" would be September 1, 1992.

Texas Eastern respectfully requests the Commission to waive all necessary rules and regulations to permit the tariff sheets listed in Appendix A of the filing to become effective on their respective proposed effective dates.

Texas Eastern states that the rates reflected in the tariff sheets are the settlement rates for the period beginning December 1, 1990 to-date as prescribed by Article II of the Agreement approved in Docket Nos. RP90-119-010 and RP91-119-006. If the tariff sheets submitted herewith are approved so that payments for September 1, 1992 may be made at the settlement rates, the difference between the settlement rates reflected on the tariff sheets listed in Appendix A and the rates which Texas Eastern billed subject to refund during the period December, 1990 through August 31, 1992 will determine the principal amount of the refunds Texas Eastern will make in accordance with Article II.

Texas Eastern states that copies of the filing has been mailed to all parties on the official service list in Docket Nos. RP90-119-010 and RP91-119-006, all customers under Rate Schedules FT-1 and IT-1, and to all authorized purchasers of natural gas from Texas Eastern Transmission Corporation and interested state commissions, as set forth in the filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before June 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-14770 Filed 6-22-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-533-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

June 16, 1992.

Take notice that on June 10, 1992, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP92-533-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to construct and operate additional measuring facilities at an existing meter station in order to provide expanded service for SIGCO Marketing, Inc. (SIGCO) to serve the town of Hornbeck, Louisiana, under United's blanket certificate issued in docket No. CP2-430-000 pursuant to section 7 of the Natural Gas Act, all as more fully detailed in the request which is on file with the Commission and open to public inspection.

Specifically, United proposes to replace the existing meter with a 4-inch orifice meter and to add a flow computer and communication equipment. It is indicated that construction and operation of the meter station were authorized by the Commission in Docket No. CP71-89. It is asserted that Hornbeck needs the increased capacity as a result of additional industrial demand.

It is explained that the facilities would permit United to deliver interruptible transportation volumes of natural gas in

addition to the firm sales volumes presently being delivered at the meter station. It is stated that the new facilities would enable United to transport 1,250 MMBtu equivalent of natural gas on an average day for SIGCO for delivery at the Hornbeck meter station. It is further stated that United would transport the gas under its ITS rate schedule. It is asserted that the additional deliveries would be within SIGCO's existing entitlement from United. The cost of installing the facilities is estimated at $17,755, and it is stated that United would be reimbursed by the Town of Hornbeck for $10,000 of the cost.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.314) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 92–14669 Filed 6–22–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–48–004]

Viking Gas Transmission Co.; Compliance Filing

June 17, 1992.

Take notice that on June 2, 1992, Viking Gas Transmission Company ("Viking") filed the following tariff sheets to be effective June 1, 1992:

Original Volume No. 1

Second Substitute Second Revised Sheet No. 97
Second Substitute Original Sheet No. 97A
Second Substitute Original Sheet No. 97B

Original Volume No. 2

Second Alternate Third Revised Sheet No. 74

Viking states that the purpose of this filing is to correct certain errors in its May 1, 1992 tariff filing in this docket, which Viking filed in compliance with the "Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions, Rejecting Other Tariff Sheets, Convening Technical Conference, and Establishing Hearing" issued by the Commission on December 31, 1991.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before June 24, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–14771 Filed 6–22–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Conservation and Renewable Energy

[Case No. F–044]

Energy Conservation Program for Consumer Products; Decision and Order Granting a Waiver From the Furnace Test Procedure to Goodman Manufacturing Company

AGENCY: Office of Conservation and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. F–044) granting a Waiver to Goodman Manufacturing Company (Goodman) from the existing Department of Energy (DOE) test procedure for furnaces. The Department is granting Goodman its Petition for Waiver regarding blower time delay in calculation of Annual Fuel Utilization Efficiency (AFUE) for its GDPS, GUPS, GDPI, GUPI, GDPX, GUPX, GUN, and GUS series of central gas furnaces.

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–43, Forrestal Building, 1000 Independence Avenue, SW. Washington, DC 20585, (202) 586–9127.

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–41, Forrestal Building, 1000 Independence Avenue, SW. Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Goodman has been granted a Waiver for its GDPS, GUPS, GDPI, GUPI, GDPX, GUN, and GUS series of central gas furnaces, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, June 16, 1992.

J. Michael Davis, P.E.,

Assistant Secretary, Conservation and Renewable Energy.

In the Matter of: The Goodman Manufacturing Company (Case No. F–044).

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, Subpart B.

DOE amended the prescribed test procedures by adding 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate

the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The Interim Waiver provisions added by the 1986 amendment allow the Assistant Secretary to grant an Interim Waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. In Interim Waiver remains in effect for a period of 180 days or until DOE issues its determination on the Petition for Waiver, whichever is sooner, and may be extended for an additional 180 days, if necessary.

Goodman filed a "Petition for Waiver," dated January 2, 1992, in accordance with § 430.27 of 10 CFR part 430. DOE published in the **Federal Register** on March 24, 1992, Goodman's petition and solicited comments, data and information respecting the petition. 57 FR 10164. Goodman also filed an "Application for Interim Waiver" under section 430.27(g) which DOE granted on March 13, 1992. 57 FR 10164, March 24, 1992.

No comments were received concerning either the "Petition for Waiver" or the "Interim Waiver." DOE consulted with the Federal Trade Commission (FTC) concerning the Goodman Petition. The FTC did not have any objections to the issuance of the waiver to Goodman.

Assertions and Determinations

Goodman's Petition seeks a waiver from the DOE test provisions that require a 1.5-minute time delay between the ignition of the burner and the starting of the circulating air blower. Goodman requests the allowance to test using a 30-second blower time delay when testing its GDPS, GUPS, GDPI, GUPI, GDPX, GUPX, GUN, and GUS series of central gas furnaces. Goodman states that since the 30-second delay is indicative of how these models actually operate and since such a delay results in an improvement in efficiency of approximately 1.0 percent, the petition should be granted.

Under specific circumstances, the DOE test procedure contain exceptions which allow testing with blower delay times of less than the prescribed 1.5-minute delay. Goodman indicates that it is unable to take advantage of any of these exceptions for its GDPS, GUPS, GDPI, GUPI, GDPX, GUPX, GUN, and GUS series of central gas furnaces.

Since the blower controls incorporated on the Goodman furnaces are designed to impose a 30-second blower delay in every instance of start up, and since the current provisions do not specifically address this type of control, DOE agrees that a waiver should be granted to allow the 30-second blower time delay when testing the Goodman GDPS, GUPS, GDPI, GUPI, GDPX, GUPX, GUN, and GUS series of central gas furnaces. Accordingly with regard to testing the GDPS, GUPS, GDPI, GUPI, GDPX, GUPX, GUN, and GUS series of central gas furnances, today's Decision and Order exempts Goodman from the existing provisions regarding blower controls and allows testing with the 30-second delay.

It is, therefore, ordered that:

(1) The "Petition for Waiver" filed by Goodman Manufacturing Company (Case No. F–044) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of appendix N of 10 CFR part 430, subpart B, Goodman Manufacturing Company shall be permitted to test its GDPS, GUPS, GDPI, GUPI, GDPX, GUPX, GUN, and GUS series of central gas furnaces on the basis of the test procedure specified in 10 CFR part 430, with modifications set forth below:

(i) Section 3.0 of appendix N is deleted and replaced with the following paragraph:

3.0 Test Procedure. Testing and measurements shall be as specified in section 9 in ANSI/ASHRAE 103–82, with the exception of sections 9.2.2, 9.3.1, and 9.3.2, and the inclusion of the following additional procedures:

(ii) Add a new paragraph 3.10 to appendix N as follows:

3.10 Gas- and Oil-Fueled Central furnaces. The following paragraph is in lieu of the requirement specified in section 9.3.1 of ANSI/ASHRE 103–82. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnaces and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t–), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulating blower, in which case the burner and blower shall be started together; or (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower; or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t–), using a stopwatch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe within ±0.01 inch of water column of the manufacturer's recommended on-period draft.

(iii) With the exception of the modifications set forth above, The Goodman Manufacturing company shall comply in all respects with the test procedures specified in appendix N of 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to the GDPS, GUPS, GDPI, GUPI, GDPX, GUPX, GUN, and GUS series of central gas furnaces manufactured by Goodman Manufacturing Company.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the petition is incorrect.

(5) Effective June 16, 1992, this Waiver supersedes the Interim Waiver granted the Goodman Manufacturing Company on March 13, 1992. 57 FR 10164, March 24, 1992 (Case No. F–044).

Issued in Washington, DC, June 16, 1992.

J. Michael Davis, P.E.,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 92–14634 Filed 6–22–92; 8:45 am]

BILLING CODE 6450-01-M

Office of Nuclear Energy

Sales of Stable Isotopes

AGENCY: Department of Energy, Office of Nuclear Energy, Isotope Production and Distribution Program.

ACTION: Notice of Final Agency Action: Isotec, Inc.

SUMMARY: Take notice that the Department of Energy's (DOE) response

denying Isotec, Inc.'s (the Petitioner), July 27, 1990, withdrawal petition, as supplemented (the Petition), became final on April 16, 1992. The Petitioner had asked that DOE withdraw from the production and distribution of the stable isotopes and services identified in appendix A to the Petition (referred to by DOE as the "Products") in competition with private-sector entities. The Petition is summarized in DOE's Notice of Withdrawal Petition and Request for Public Comments (56 FR 46609, September 13, 1991).

SUPPLEMENTARY INFORMATION: Neither applicable law nor DOE regulations specifically addresses the consideration of a withdrawal petition. Therefore, at the petitioner's request, DOE considered the Petition under the guidelines issued by the Atomic Energy Commission (AEC) in its Statement of Policies and Procedures for the Transfer of Commercial Radioisotope Production and Distribution to Private Industry (the Atomic Energy Commission Policy Statement published in the March 9, 1965, **Federal Register**).

A number of the comments received in response to the September 13, 1991, notice were from the Petitioner's customers or potential customers. Most of these commenters disagreed with or questioned the Petitioner's portrayal of the markets from which DOE's withdrawal had been requested. DOE concluded from the comments that the Petitioner had not demonstrated that the general criteria for withdrawal, provided as guidelines in the Policy Statement, had been or could be met. Therefore, a notice of proposed response denying the Petition and providing an additional public comment period was published in 57 FR 7379, March 2, 1992. The notice provided that, without further action by DOE, the proposed response would become final on April 16, 1992.

On March 16, 1992, the Petitioner asked that the closing date for the comment period (April 1, 1992) and the effective date for the response be postponed. No justification for delay was cited. The request was denied. On April 1, 1992, the Petitioner filed comments that attempted to rebut and discredit the public record compiled in the course of the informal proceeding and, despite having requested and agreed to the informal procedures under the Policy Statement, demanded that DOE provide to it the procedural safeguards incident to formal rulemaking or formal adjudication. No other comments were received during the additional comment period.

Having considered the April 1, 1992, comments, DOE concluded that the assertion of a right to more formal procedures was without merit because neither the statutes relied on by Petitioner nor relevant precedents on administrative due process require such procedures for the type of adjudicatory determination in this case or where a petitioner has previously agreed to informal procedures. Because DOE concluded that it was not required by law to accord to the Petition formal treatment demanded by the Petitioner, and that, given the public record and the conclusion already reached in the informal proceeding, it should not do so, no further action was taken with regard to the Petition. Consequently, the proposed denial became final on April 16, 1992.

The DOE regulations do not address the appeal of a withdrawal request under the Policy Statement. Although procedures applicable to other proceedings could be made available for this purpose at DOE's discretion, DOE has concluded that the record of the informal proceeding does not indicate that further administrative action is warranted. The response denying the withdrawal request, therefore, constitutes the final agency action on the Petition.

Dated at Washington, DC, this 16th day of June, 1992.

William H. Young,

Assistant Secretary for Nuclear Energy.

[FR Doc. 92-14759 Filed 6-22-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Technical and Financial Assistance Award Based on Acceptance of an Unsolicited Application the Alliance to Save Energy (ASE)

AGENCY: U.S. Department of Energy (DOE).

ACTION: DOE, Office of Technical & Financial Assistance, through the Philadelphia Support Office, announces that, pursuant to the DOE Financial Assistance Rules 10 CFR 600.14(f), DOE intends to award a cooperative agreeement to the ASE. The anticipated overall objective is to accelerate the use of energy efficient technologies in the marketplace.

SUPPLEMENTAL INFORMATION: In the performance of this project, entitled "Energy Efficiency for the 1990s: Taking Technology into the Marketplace," ASE will conduct a major consumer education campaign and activate the energy efficiency industry in four DOE regions.

The total estimated amount of the agreement is $400,000. Of this amount, DOE plans to fund $200,000 during FY1992.

The term of the cooperative agreement shall be twenty-four (24) months from the date of the award.

DOE knows of no other entity that is conducting or planning to conduct such an effort. This effort is considered suitable for noncompetitive financial assistance and would not be eligible for financial assistance under a recent, current, or planned solicitation.

FOR FURTHER INFORMATION CONTACT: Christopher G. McGowan, Philadelphia Support Office, U.S. Department of Energy, Tenth Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102-1492, (215) 597-3890.

Issued in Chicago, Illinois on May 27, 1992.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 92-14760 Filed 6-22-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-44586; FRL 4071-6]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on the chemical analyses of tetrabromobisphenol A (CAS No. 79-74-7), 2,4,6-tribromophenol (CAS No. 118-79-6), decabromodiphenyloxide (CAS No. 1163-19-5), and octabromodiphenyloxide (CAS No. 32536-52-0) for dibenzo-*p*-dioxins/dibenzofurans. These data were submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under

section 4(a) within 15 days after it is received.

I. Test Data Submissions

Test data for dibenzo-*p*-dioxins/dibenzofurans were submitted by Ethyl Corporation, and Great Lakes Chemical Corporation pursuant to a final test rule at 40 CFR part 766. They were received by EPA on May 22 and 26, 1992. The submissions describe the chemical analyses of tetrabromobisphenol A, 2,4,6-tribromophenol, decabromodiphenyloxide, and octabromodiphenyloxide for dibenzo-*p*-dioxins/dibenzofurans. These chemical analyses are required by this test rule.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness or the acceptance of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS-44586). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: June 15, 1992.

Charles M. Auer,

Director, Existing Chemical Assessment Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-14745 Filed 6-22-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-59942; FRL 4075-4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 4 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 92-144, June 24, 1992.

Y 92-145, June 29, 1992.

Y 92-146, 92-147, June 30, 1992.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 92-144

Manufacturer. Mace Adhesive and Coatings Co., Inc.

Chemical. (G) Poly(oxy(methyl-1,2-ethsanediyl)ox-hydro with hydroxy-, polymer with diaminoalkane, diisocyanatoalkane, 2-oxopane polymer with 2-ethyl-2-(hydroxymethyl)-1,3-propanedkol, and polysubstituted alkanediol, compared with N,N-diethanamine.

Use/Production. (S) Polymeric binder for industrial coatings. Prod. range: 3,500-6,000 kg/yr.

Y 92-145

Manufacturer. Elf Atochem North America.

Chemical. (S) Aqueous ammonia.

Use/Production. (S) Pigment dispersing aid. Prod. range: Confidential.

Y 92-146

Importer. Confidential.

Chemical. (G) Polymeric modified rosin ester.

Use/Import. (G) Open, nondispersive. Import range: Confidential.

Y 92-147

Importer. Confidential.

Chemical. (G) Acrylic copolymer.

Use/Import. (G) Adhesive. Import range: Confidential.

Dated: June 17, 1992.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 92-14746 Filed 6-22-92; 8:45 am]

BILLING CODE 6560-50-F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Reports Under the Americans with Disabilities Act

AGENCY: Equal Employment Opportunity Commission.

ACTION: Cancellation of proposed pilot survey.

SUMMARY: Notice is hereby given that the Commission is cancelling its plan to conduct a pilot survey of the disability status of all employees working at a number of private establishments, randomly selected from the files of the Employer Information Report (EEO-1) survey. The Commission is taking this action in light of its budget conditions and in light of the Commission's examination of its regulations as a result of the President's moratorium on the increase in existing reporting burden and costs.

In response to a request for public comments concerning the pilot survey, published at 56 FR 66445 (December 23, 1991), the Commission received numerous, valuable comments from the public. After publication of the notice, the President announced a comprehensive review of all federal regulations and programs that impose a substantial cost on the economy. As directed by the President, the Commission worked with the Council on Competitiveness to identify those existing and proposed regulations and programs that imposed a substantial cost on the economy. In a notice published at 57 FR 11455 (April 3, 1992), the Commission sought public comment on which regulatory initiatives impose substantial costs on the economy. A number of comments were received, some of which identified the proposed pilot survey under the Americans with Disabilities Act as an initiative that would impose such a burden. In light of the Commission's evaluation of these comments and in response to the President's goal to reduce regulatory burdens, the Commission has decided to cancel the proposed pilot survey of the disability status of all employees working at a number of private establishments.

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Director, Program Research and Survey Division at (202) 663–4958 (voice) or (202) 708–9300 (TDD), Equal Employment Opportunity Commission, 1801 L Street NW., Washington, DC 20507.

For the Commission.

Evan J. Kemp, Jr.,

Chairman.

[FR Doc. 92–14756 Filed 6–22–92; 8:45 am]

BILLING CODE 6750–01–M

FARM CREDIT ADMINISTRATION

Final Order Barring Claims, Discharging and Releasing the Farm Credit Bank of Omaha as Receiver and Cancelling Articles of Incorporation of O'Neill Production Credit Association

AGENCY: Farm Credit Administration.

ACTION: Notice.

On June 11, 1992, the Chairman of the Farm Credit Administration Board executed a Final Order barring claims against the Farm Credit Bank of Omaha (FCB) as successor to the Federal Intermediate Credit Bank of Omaha, arising out of the liquidation of the O'Neill Production Credit Association; discharging the FCB as receiver; and cancelling the Articles of Incorporation of the O'Neill Production Credit Association. The text of the Final Order is set forth below:

Final Order Barring Claims, Discharging and Releasing the Farm Credit Bank of Omaha as Receiver and Cancelling Articles of Incorporation of O'Neill Production Credit Association

Whereas, the Board of Directors of the O'Neill Production Credit Association (O'Neill PCA) adopted a resolution placing the PCA in voluntary liquidation and a Liquidation Plan (Plan) outlining the manner in which the liquidation was to proceed, which were approved by the Farm Credit Administration on November 9, 1984;

Whereas, pursuant to the Plan, Dan Williams and Associates was appointed Liquidating Agent by the Federal Intermediate Credit Bank of Omaha (FICB), predecessor to the Farm Credit Bank of Omaha, on November 9, 1984; Emerald Leasing Corporation was appointed successor Liquidating Agent with James C. Larson as Liquidating Manager on July 31, 1986;

Whereas, on June 28, 1988, the Farm Credit Bank of Omaha purchased substantially all remaining assets of the O'Neill PCA and assumed substantially all remaining liabilities;

Whereas all assets of the O'Neill PCA have been disposed of in accordance with the Plan;

Whereas, in accordance with the Plan, all claims filed by creditors and holders of equities have been paid or provided for, including, without limitation, certain administrative expenses that the Farm Credit Bank of Omaha has paid; and

Whereas, the O'Neill PCA has been audited and examined;

Now, Therefore, it is Hereby Ordered That:

1. All claims of creditors, stockholders, and holders of participation certificates and other equities, and of any other persons and/or entities, against the O'Neill Production Credit Association, or, to the extent arising out of the actions of the Federal Intermediate Credit Bank of Omaha or its successor, the Farm Credit Bank of Omaha, in carrying out the liquidation of the O'Neill Production Credit Association, as approved by the Farm Credit Administration on November 9, 1984, against the Federal Intermediate Credit Bank of Omaha, the Farm Credit Bank of Omaha, and the Liquidating Agents, are hereby forever discharged, and the commencement of any action, the employment of any process, or any other act to collect, recover, or offset any such claims are hereby forever barred.

2. The accounts of the O'Neill Production Credit Association for the period November 9, 1984, through the date of this Order are hereby approved.

3. The Farm Credit Bank of Omaha is hereby finally discharged and released from all responsibility of liability to the Farm Credit Administration or any other person or entity arising out of, related to, or in any manner connected with the administration and liquidation of the O'Neill Production Credit Association during the period November 9, 1984, through the date of this Order. The discharge and release of the Liquidating Agents by the Farm Credit Bank of Omaha are hereby approved.

4. The Articles of Incorporation of the O'Neill Production Credit Association are hereby cancelled.

Signed: June 11, 1992.

By Harold B. Steele,

Chairman, Farm Credit Administration Board.

Dated: June 17, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92–14712 Filed 6–22–92; 8:45 am]

BILLING CODE 6705–01–M

Final Order Barring Claims, Discharging and Releasing the Farm Credit Bank of Omaha as Receiver and Cancelling Articles of Incorporation of Valentine Production Credit Association

AGENCY: Farm Credit Administration.

ACTION: Notice.

On June 11, 1992, the Chairman of the Farm Credit Administration Board executed a Final Order barring claims against the Farm Credit Bank of Omaha (FCB) as successor to the Federal Intermediate Credit Bank of Spokane, arising out of the liquidation of the Valentine Production Credit Association; discharging the FCB as receiver; and cancelling the Articles of Incorporation of the Valentine Production Credit Association. The text of the Final Order is set forth below:

Final Order Barring Claims, Discharging and Releasing the Farm Credit Bank of Omaha as Receiver and Cancelling Articles of Incorporation of Valentine Production Credit Association

Whereas, the Board of Directors of the Valentine Production Credit Association (Valentine PCA) adopted a resolution placing the PCA in voluntary liquidation and a Liquidation Plan (Plan) outlining the manner in which the liquidation was to proceed, which were approved by the Farm Credit Administration on November 9, 1984;

Whereas, pursuant to the Plan, Dan Williams and Associates was appointed Liquidating Agent by the Federal Intermediate Credit Bank of Omaha (FICB), predecessor to the Farm Credit Bank of Omaha, on November 9, 1984; Emerald Leasing Corporation was appointed successor Liquidating Agent with James C. Larson as Liquidating Manager on July 31, 1986;

Whereas, on June 28, 1988, the Farm Credit Bank of Omaha purchased substantially all remaining assets of the Valentine PCA and assumed substantially all remaining liabilities;

Whereas, all assets of the Valentine PCA have been disposed of in accordance with the Plan;

Whereas, in accordance with the Plan, all claims filed by creditors and holders of equities have been paid or provided for, including, without limitation, certain administrative expenses that the Farm Credit Bank of Omaha has paid; and

Whereas, the Valentine PCA has been audited and examined;

Now, therefore, It is hereby ordered That:

1. All claims of creditors, stockholders, and holders of

participation certificates and other equities, and of any other persons and/or entities, against the Valentine Production Credit Association, or, to the extent arising out of the actions of the Federal Intermediate Credit Bank of Omaha or its successor, the Farm Credit Bank of Omaha, in carrying out the liquidation of the Valentine Production Credit Association, as approved by the Farm Credit Administration on November 9, 1984, against the Federal Intermediate Credit Bank of Omaha, the Farm Credit Bank of Omaha, and the Liquidating Agents, are hereby forever discharged, and the commencement of any action, the employment of any process, or any other act to collect, recover, or offset any such claims are hereby forever barred.

2. The accounts of the Valentine Production Credit Association for the period November 9, 1984, through the date of this Order are hereby approved.

3. The Farm Credit Bank of Omaha is hereby finally discharged and released from all responsibility or liability to the Farm Credit Administration or any other person or entity arising out of, related to, or in any manner connected with the administration and liquidation of the Valentine Production Credit Association during the period November 9, 1984, through the date of this Order. The discharge and release of the Liquidating Agents by the Farm Credit Bank of Omaha are hereby approved.

4. The Articles of Incorporation of the Valentine Production Credit Association are hereby cancelled.

Signed: June 11, 1992.

Harold B. Steele,

Chairman, Farm Credit Administration Board.

Dated: June 17, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-14713 Filed 6-22-92; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability Council Meeting

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, this notice advises interested persons of the third meeting of the Network Reliability Council ("Council"), which will be held at the Federal Communications Commission in Washington, DC.

DATES: July 8, 1992 at 2 p.m.

ADDRESSES: Federal Communications Commission, room 856, 1919 M Street, NW., Washington, DC 20554.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic and consumer organizations to explore and recommend measures that would enhance network reliability.

The agenda for the third meeting is as follows. The meeting will begin with introductory comments by Chairman Henson. There will be a report on the working groups formed by the Steering Team since the last meeting, with emphasis on the Signaling Working Group and the Fiber Working Group, followed by Council discussion of the Steering Team and working group activities. The Threshold Reporting Group will present its recommendations for further refinements of the outage reporting criteria, followed by Council discussion of those recommendations. A proposal for the formation of a Joint Planning Group will be presented, followed by Council discussion. The Council may then address other issues. After determining the next meeting date, the Council will adjourn.

Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. There will be no public oral participation, but the public may submit written comments to James Keegan, the Council's designated Federal Officer, before the meeting.

For additional information, contact James Keegan, designated Federal Officer of the Network Reliability Council and Chief, Domestic Facilities Division, Federal Communications Commission at (202) 634-1860.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-14715 Filed 6-22-92; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Board of Visitors for the Emergency Management Institute

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, FEMA announces the following committee meeting:

NAME: Board of Visitors for the Emergency Management Institute.

DATES OF MEETING: July 22-24, 1992.

PLACE: Federal Emergency Management Agency, National Emergency Training Center, Emergency Management Institute, Conference Room, Building N, Emmitsburg, MD 21727.

TIME: July 22, 1992, 8:30 a.m.-5 p.m.; July 23, 1992, 8:30 a.m.-5 p.m.; July 24, 1992, 8:30 a.m.-12 noon.

PROPOSED AGENDA: July 22: annual joint session with the National Fire Academy Board of Visitors and FEMA's response to the Board's 1991 Annual Report.

July 23: status briefings on EMI's programs and refinement of the Board's 1992 workplan.

July 24: assignments to address Board's 1992 workplan.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public with approximately 5 seats available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, Emergency Management Institute, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447-1251, on or before July 13, 1992.

Minutes of the meeting will be prepared and will be available for public viewing in the Office of the Superintendent, Emergency Management Institute, Federal Emergency Management Agency, Building N, National Emergency Training Center, Emmitsburg, MD 21727. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: June 16, 1992.

Grant C. Peterson,

Associate Director, State and Local Programs and Support.

[FR Doc. 92-14721 Filed 6-22-92; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed; City of Long Beach and Crescent Terminals, Inc., Preferential Assignment Agreement; et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal

Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–003877–003.
Title: City of Long Beach and Crescent Terminals, Inc., Preferential Assignment Agreement.
Parties:
The City of Long Beach,
Crescent Terminals, Inc.
Synopsis: The Agreement reduces the term period of the Agreement, from June 30, 2005 to June 30, 2000.

Agreement No.: 224–200671.
Title: Port of Seattle/Distribution and Auto Service, Inc. Terminal Agreement.
Parties:
Port of Seattle,
Distribution and Auto Service, Inc.
Synopsis: The Agreement provides for the lease of port facilities for a term of 15 years plus a 5-year renewal option.

Agreement No.: 224–200672.
Title: Tampa Port Authority/Tampa Bay International, Terminals Terminal Agreement.
Parties:
Tampa Port Authority ("Port"),
Tampa Bay International Terminals, Inc. ("TBIT").
Synopsis: The Agreement provides for the Port to assess TBIT an incentive wharfage rate of 115 cents per net ton on chipboard moving through the facilities of the Port of Tampa. This rate incentive is based on a minimum annual volume of 1,500 net tons. The Agreement is effective through June 9, 1993, and may be extended for an additional one-year period.

Agreement No.: 224-200673.
Title: Tampa Port Authority/Stephenson International, Shipping Inc. Terminal Agreement.
Parties:
Tampa Port Authority ("Port"),
Stephenson International Shipping Inc. ("Stephenson").
Synopsis: The Agreement provides for the Port to lease approximately one half acre of land and a building to Stephenson on a month-to-month basis with guaranteed occupancy through December 14, 1992.

Agreement No.: 203–011378.
Title: United States/Middle East Independent Carrier Discussion Agreement.
Parties:
Croatia Line,
DSR-Senator Linie GmbH & Co. KG,
Lykes Bros. Steamship Co., Inc.
Synopsis: The proposed Agreement would authorize any two or more parties to meet, discuss, exchange information and agree on rates, charges, practices and rules and regulations in the trade from United States ports and points (excluding ports in Alaska and Hawaii) to ports and points in the Red Sea and Arabian Gulf. The parties have no obligation under this Agreement, other than voluntary, to adhere to any consensus or agreement reached. The parties have requested a shortened review period.

Agreement No.: 217–011379.
Title: Ivaran/TSL Space Charter Agreement.
Parties:
A/S Ivarans Rederi ("Ivarans"),
Transroll/Sea-Land Joint Service ("TSL").
Synopsis: The proposed Agreement would permit TSL to charter space from Ivarans in the trade between points and ports in the United States and points and ports in Argentina and Brazil. The parties have requested a shortened review period.

Dated: June 17, 1992.
By Order of the Federal Maritime Commission.
Ronald D. Murphy,
Assistant Secretary.

[FR Doc. 92–14673 Filed 6–22–92; 8:45 am]
BILLING CODE 6730–01–M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Travel Dynamics, Inc., Aurora Cruises, Inc., New Frontier Cruises Ltd. and Trave Cruise I, Inc., 132 East 70th Street, New York, NY 10021. Vessel: Aurora I.

Dated: June 17, 1992.
Joseph C. Polking,
Secretary.

[FR Doc. 92–14765 Filed 6–22–92; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

June 16, 1992

Background

Notice is hereby given of the final approval of proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR § 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public)

FOR FURTHER INFORMATION CONTACT:
Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829)
OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7340).

Final approval under OMB delegated authority of the extension without revision of the following report:

1. *Report title:* Statement of Purpose for an Extension of Credit by a Creditor.
Agency form number: FR T–4.
OMB Docket number: 7100–0019.
Frequency: As needed.
Reporters: Individuals, brokers and dealers.
Annual reporting hours: 117.
Estimated average hours per response: 10 minutes.
Number of respondents: 700.
Small businesses are not affected.
General description of report: This information collection is required by law [15 U.S.C. 78g and 78w; 12 CFR 220].
Abstract: Federal Reserve Regulation T requires that a written report be completed whenever a broker-dealer makes a loan in excess of the current margin requirement, without collateral, or on any collateral other than securities, and where the credit is not for the purpose of purchasing or carrying securities. The report provides a record of the amount of "nonpurpose" credit being extended, the purpose for which the money is to

be used, and a listing and valuation of collateral

Board of Governors of the Federal Reserve System, June 16, 1992

William W. Wiles,

Secretary of the Board.

[FR Doc. 92-14706 Filed 6-22-92; 8:45 am]

BILLING CODE 6210-01-M

Central Arkansas Bancshares, Inc.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 17, 1992.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Central Arkansas Bancshares, Inc., Arkadelphia, Arkansas; to engage *de novo* through its subsidiary, Central Arkansas Appraisal Company, Malvern, Arkansas, in the activity of appraisal of residential and commercial real property, pursuant to § 225.25(b)(13) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 17, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-14708 Filed 6-22-92; 8:45 am]

BILLING CODE 6210-01-F

First Financial Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 17, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First Financial Corporation, Terre Haute, Indiana; to acquire 24.9 percent of the voting shares of First Citizens of Paris, Inc., Paris, Illinois, and thereby indirectly acquire The Citizens National Bank of Paris, Paris, Illinois.

2. Pyramid Bancorp, Inc., Grafton, Wisconsin; to become a bank holding company by acquiring up to 100 percent of the voting shares of Grafton State Bank, Grafton, Wisconsin.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Security Shares, Inc., Abilene, Texas; to acquire 100 percent of the voting shares of Farmers & Merchants National Bank of Merkel, Merkel, Texas.

Board of Governors of the Federal Reserve System, June 17, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-14707 Filed 6-22-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[Dkt. C-3384]

Exhart Environmental Systems, Inc., et al.; Prohibited Trade Practice, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order prohibits, among other things, a California-based company and its owners from representing that their electronic devices can eliminate, reduce the number of, or prevent the reentry of rodents unless they can substantiate such representations, and also prohibits them from stating that the devices are EPA-approved or waterproof, if that is not the case. In addition, the agreement requires the respondents to send a letter to all catalogue companies with which they have done business since January 1, 1990, informing them of the requirements of the order.

DATES: Complaint and Order issued June 2, 1992.[1]

FOR FURTHER INFORMATION CONTACT: Eileen Harrington or David Torok, FTC/H-238, Washington, DC 20580. (202) 326-3127 or 326-3075.

SUPPLEMENTARY INFORMATION: On Wednesday, March 25, 1992, there was published in the **Federal Register**, 57 FR 10357, a proposed consent agreement with analysis In the Matter of Exhart Environmental systems, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an

[1] Copies of the complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue NW., Washington, DC 20580.

order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 92-14762 Filed 6-22-92; 8:45 am]

BILLING CODE 6750-01-M

[File No. 892 3115]

Patricia Wexler, M.D.; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a New York doctor from misrepresenting the efficacy of Omexin, a hair loss treatment, or any similar treatment concerning the curtailment of hair loss or the promotion of hair growth, and from making certain representations unless she possesses competent and reliable scientific evidence to substantiate such representations. The respondent would also be prohibited from disseminating or assisting with the dissemination of a program-length advertisement regarding baldness.

DATES: Comments must be received on or before August 24, 1992.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Lesley Fair, FTC/S-4002, Washington, DC 20580, (202) 326-3081; or Michael Bloom, New York Regional Office, Federal Trade Commission, 150 William Street, suite 1300, New York, NY 10038, (212) 264-1207.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice 16 CFR 4.9(b)(6)(ii).

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Patricia Wexler, M.D., hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of certain acts and practices being investigated,

It is hereby agreed by and between Patricia Wexler, M.D., and counsel for the Federal Trade Commission that:

1. Proposed respondent Patricia Wexler, M.D. ("Wexler") is or was at relevant times herein a medical doctor licensed to practice by the State of New York, with a specialty in dermatology. Dr. Wexler's business address is 568 Broadway, New York, New York, 10012. After January 1, 1992, Dr. Wexler expects her new business address to be 461 Park Avenue South, New York, New York, 10016.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of the Complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claims under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft complaint, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance to the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's attorney, Mary D. Dorman, Esq., 568 Broadway, New York, New York 10012, shall constitute service. Proposed respondent waives any right she may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. She understands that once the order has been issued, she will be required to file one or more compliance reports showing that she has fully complied with the order. Proposed respondent further understands that she may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent Patricia Wexler, M.D., and respondent's agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the endorsing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and

desist from selling, broadcasting or otherwise disseminating, or assisting others to sell, broadcast or otherwise disseminate, in part or in whole, the program-length television advertisement for Omexin described and identified in the Complaint as "Can You Beat Baldness?"

II

It is further ordered that respondent Patricia Wexler, M.D., and respondent's agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, do forthwith cease and desist from:

A. Representing, directly or by implication, in connection with the endorsing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of Omexin or any other substantially similar hair loss treatment product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, that:

1. Such product or service contains an ingredient that can or will curtail hair loss;

2. Such product or service contains an ingredient that can or will promote the growth of new, pigmented terminal hair where hair has already been lost;

3. Such product or service contains an ingredient that has been scientifically proven to curtail hair loss;

4. Such product or service contains an ingredient that has been scientifically proven to promote the growth of new, pigmented terminal hair where hair has already been lost;

5. Such product or service can or will prevent, cure, relieve, reduce, or reverse hair loss;

6. Such product or service is an effective remedy for hair loss in a large majority of cases; or

7. Any test or study establishes that such product prevents, cures, relieves, reduces, or reverses hair loss.

For purposes of this Order a "substantially similar hair loss treatment product or service" shall be defined as any product or service that is advertised or intended for sale over-the-counter to treat, cure or curtail hair loss and which contains omentum or any extract thereof.

B. Representing, directly or by implication, in connection with the endorsing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any other product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, that:

1. The use of the product or service can or will prevent, cure, relieve, reduce, or reverse loss of hair;

2. The use of the product or service can or will promote the growth of new hair where hair has already been lost;

3. The product or service is an effective remedy for hair loss in a substantial number or cases; or

4. Any test or study establishes that the product or service prevents, cures, relieves, reduces, or reverses hair loss,

unless the representation is true and, at the time of making the representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation. For the purposes of this Order, "competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results. *Provided that,* for any representation made by respondent as an expert endorser, respondent must possess and rely upon competent and reliable scientific evidence, and an actual exercise of respondent's represented expertise, in the form of an examination or testing of the products or services at least as extensive as an expert in that field would normally conduct in order to support the conclusions presented in the representation.

III

It is further ordered That respondent Patricia Wexler, M.D., and respondent's agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the endorsing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test or study.

IV

It is further ordered That respondent Patricia Wexler, M.D., and respondent's agents, representatives and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the endorsing, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any food, drug, device, or cosmetic, as those terms are defined in section 15 of the Federal Trade Commission Act, 15 U.S.C. 55, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representation, directly or by implication, regarding the performance, benefits, efficacy or safety of any such product unless at the time of making the representation respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation. *Provided that,* for any representation made by respondent as an expert endorser, respondent must possess and rely upon competent and reliable scientific evidence, and an actual exercise of respondent's represented expertise, in the form of an examination or testing of the products or services at least as extensive as an expert in that field would normally conduct in order to support the conclusions presented in the representation.

V

It is further ordered That respondent Patricia Wexler, M.D., shall, for three (3) years after the date of the last dissemination of any representation covered by this Order, maintain and upon request make available to the Federal Trade Commission or its staff for inspection and copying:

A. All materials that were relied upon by respondent to substantiate any such representation;

B. All test reports, studies, or other materials in her possession or control that contradict, qualify, or call into question such representation.

VI

It is further ordered That Patricia Wexler, M.D., shall, for a period of six (6) years from the date of service of this Order, promptly notify the Commission of the discontinuance of her present business or employment and of her affiliation with a new business or employment whose activities include, or in which her own duties and responsibilities involve, the advertising, endorsing, promotion, offering for sale, sale, or distribution of any food, drug, device, or cosmetic, as those terms are defined in section 15 of the Federal Trade Commission Act, 15 U.S.C. 55. For each such new affiliation, the notice shall include the name and address of the new business or employment, a statement of the nature of the new business or employment, and a description of respondent's duties and responsibilities in connection with the new business or employment.

VII

It is further ordered That Patricia Wexler, M.D., shall, within sixty (60) days after service of this Order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which she has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Patricia Wexler, M.D.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns the Omexin System for Hair ("Omexin"), a purported treatment for hair loss as depicted on the program-length advertisement entitled "Can You Beat Baldness?" In the advertisement, respondent Wexler assisted in the promotion of Omexin by providing an endorsement of the product. Respondent is a medical doctor licensed to practice in the State of New York, with a specialty in dermatology.

The Commission's proposed complaint alleges that the respondent in giving her endorsement falsely represented that Omexin contains an ingredient that has been scientifically proven to curtail hair loss for a large majority of balding men and women and to promote the growth of significant numbers of new hairs, and that she knew or should have known that the representations were false. The proposed complaint also charges that respondent falsely represented that she relied upon a reasonable basis in support of the representations made in the endorsement.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future. Part I of the proposed order prohibits respondent from disseminating, or assisting others to disseminate, the program-length advertisement entitled "Can You Beat Baldness?"

Part II.A of the proposed order prohibits respondent from representing that Omexin or any other substantially similar hair loss treatment will curtail hair loss, grow new hair, or is scientifically proven. Part II.B of the proposed order prohibits respondent from making any representations about the efficacy of any other product in curtailing hair loss or growing new hair, unless the representation is true and respondent possesses and relies upon "competent and reliable scientific evidence" to support the representation.

Competent and reliable scientific evidence is defined in the proposed order as tests, analyses, research, studies, or other evidence that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results. For any representation made by respondent as an expert endorser, respondent must possess and rely upon both competent and reliable scientific evidence and an actual exercise of respondent's expertise in the form of an examination or testing of the product at least as extensive as an expert in that field would normally conduct in order to support the conclusions presented in the representation.

Part III of the proposed order prohibits respondent from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test or study.

Part IV of the proposed order prohibits respondent from making any representation about the performance, benefits, efficacy, or safety of any food, drug, device or cosmetic, unless she possesses and relies upon competent and reliable scientific evidence in support of the representation.

The proposed order also requires respondent to maintain materials that support, contradict, qualify, or call into question any representation by respondent; to notify for a six year period the Commission of any change in her business or employment involving the endorsement or sale of any food, drug, device, or cosmetic; and to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 92-14763 Filed 6-23-92; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Development of Clinical Guidelines for the Treatment of Pressure Ulcers in Adults

The Agency for Health Care Policy and Research announces that it is inviting nominations of qualified individuals to serve as panel members on an existing panel of health care experts and consumers to develop a clinical practice guidelines for the treatment of pressure ulcers in adults.

Background

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239) added a new title IX to the Public Health Service Act (the Act), which established the Agency for Health Care Policy and Research (AHCPR) to enhance the quality, appropriateness, and effectiveness of health care services and access to such services. (See 42 U.S.C. 299-299c-6 and 1320b-12.)

As part of its legislative mandate, AHCPR is arranging for the development, periodic review, and updating of clinically relevant guidelines that may be used by physicians, other health care practitioners, educators, and consumers to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and clinically managed.

Section 912 of the Act (42 U.S.C. 299b-1(b)) requires that the guidelines be:

1. Based on the best available research and professional judgment;
2. Presented in formats appropriate for use by physicians, other health care practitioners, medical educators, medical review organizations, and consumers; and
3. Presented in treatment-specific or condition-specific forms appropriate for use in clinical practice, educational programs, and reviewing quality and appropriateness of medical care.

Section 913 of the Act (42 U.S.C. 299b-2) describes two mechanisms through which AHCPR may arrange for development of guidelines: 1. Panels of qualified health care experts and consumers may be convened; and 2. contracts may be awarded to public and private non-profit organizations. The AHCPR has elected to use the panel process for development of clinical practice guidelines for the treatment of pressure ulcers in adults.

Section 914 of the Act (42 U.S.C. 299b–3(a)) identifies factors to be considered in establishing priorities for guidelines, including the extent to which the guidelines would:

1. Improve methods of prevention, diagnosis, treatment, and clinical management, and thereby benefit a significant number of individuals;
2. Reduce clinically significant variations among clinicians in the particular services and procedures utilized in making diagnosis and providing treatments; and
3. Reduce clinically significant variations in the outcomes of health care services and procedures.

Also, in accordance with title IX of the PHS Act and section 1142 of the Social Security Act, the Administrator is to assure that the needs and priorities of the Medicare program are reflected appropriately in the agenda and priorities for development of guidelines.

Panel Nominations

The panel that will develop the guideline for the treatment of pressure ulcers in adults will consist of a chairperson and nine to fifteen members. The panel chairperson is: Nancy Bergstrom, Ph.D., R.N., F.A.A.N., Professor of Nursing, College of Nursing, University of Nebraska Medical Center. To assist in identifying members for the panel, AHCPR is requesting recommendations from a broad range of interested individuals and organizations, including physicians representing primary care and relevant specialties, nurses, allied health and other health care practitioners, health care institutions, and consumers with pertinent experience or information. The AHCPR is especially interested in receiving nominations of:

(1) Persons with experience in developing clinical guidelines;

(2) persons with relevant experience in basic and clinical research in pressure ulcer treatment;

(3) persons with relevant experience and clinical and technical skills needed to diagnose and treat pressure ulcers; and

(4) consumers who have had personal experience with pressure ulcers, either as a patient or as a family member or friend of a patient.

This notice requests nominations of qualified individuals to serve on the panel as members. Panel members will report to the panel chair. The chairperson provides leadership regarding methodology, literature review, panel deliberations, and formation of the final products. Nominations for the panel members should take into consideration the criteria specified below, which AHCPR will use in making panel selections.

- Relevant training and clinical experience;
- Demonstrated interest in quality assurance and research on the clinical condition(s) under consideration and the related treatment of the condition(s), including publication of relevant peer-reviewed articles;
- Commitment to the need to produce clinical guidelines;
- Recognition in the field with a record of leadership in relevant activities;
- Broad public health view of the utility of particular procedures(s) or clinical services(s);
- Demonstrated capacity to lead a health care team in group decisionmaking processes;
- Demonstrated capacity to respond to consumer concerns;
- Prior experience in developing guidelines for the clinical condition in question; and
- No potential conflict of interest that would impair the impartial participation in development of the guidelines.

Nominations for members of the panel will be submitted to the chairperson for review and consideration. The chairperson will, in turn, recommend proposed panel members to AHCPR. Appointments of the panel members will be made by AHCPR, after review of proposed members' qualifications and the overall composition of the panel to ensure representation of a range of expertise and experience.

Each nomination must include a copy of the individual's curriculum vitae or resume, plus a statement of the rationale for the specific nomination. To be considered, nominations must be received by July 3, 1992 at the following address: Office of the Forum for Quality and Effectiveness in Health Care, Attn: Margaret Coopey, Agency for Health Care Policy and Research, 2101 East Jefferson Street, suite 401, Rockville, Maryland 20852, (Phone: 301–227–6671), (Fax: 301–227–8332).

For Additional Information

Additional information on the guideline development process is contained in the AHCPR Fact Sheet, "AHCPR-Commissioned Clinical Practice Guidelines," dated January 1992 and the Program Note, "Clinical Guideline Development," dated August 1990. these documents can be obtained from the AHCPR Publications Clearinghouse, P.O. Box 8457, Silver Spring, MD 20907; or call Toll-Free: 1–800–358–9295.

Also, information can be obtained by contacting Kathleen A. McCormick, Ph.D., R.N., Director, Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, at the Rockville addresses above.

Dated: June 16, 1992.

J. Jarrett Clinton,

Administrator.

[FR Doc. 92–14710 Filed 6–22–92; 8:45 am]

BILLING CODE 4160–90–M

Agency for Health Care Policy and Research

Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C. appendix 2), announcement is made of the following advisory subcommittee scheduled to meet during the month of June 1992:

Name: Schizophrenia PORT (Patient Outcomes Research Teams) Advisory Subcommittee.

Dates and Times: June 29, 1992, 9:30 a.m.

Place: Crystal City Marriott, 1999 Jefferson Davis Highway, Salon B., Arlington, Virginia 22202.

This meeting will be closed to the public.

Purpose. The Subcommittee's charge is to provide, on behalf of the Health Care Policy and Research Contracts Review Committee, advice and recommendations to the Secretary and to the Administrator, Agency for Health Care Policy and Research (AHCPR) regarding the scientific and technical merit of contract proposals submitted in response to a specific Request for Proposals. The purpose of this contract is to: Identify practice variations in the treatment and management of schizophrenia and analyze these variations in terms of relative patient outcomes, resources, and remaining scientific uncertainties; develop clinical recommendations regarding appropriate and effective treatment; disseminate project findings; and evaluate the effectiveness of the dissemination in terms of measurable change.

Agenda: The session of this Subcommittee will be devoted entirely to the technical review and evaluation of contract proposals submitted in response to a specific Request for Proposals. The Administrator, AHCPR, has made a formal determination that this meeting will not be open to the public. This is necessary to protect the free exchange of views and avoid undue interference with Committee and Department operations, and safeguard confidential proprietary information and personal information concerning individuals associated with the proposals that may be revealed during the sessions. This is in accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. appendix 2, Department regulations, 45 CFR 11.5(a)(6), and procurement regulations, 48 CFR 315.604(d).

Anyone wishing to obtain information regarding this meeting should contact Karen Harris, Office of Management, Management Systems and Services Branch, Agency for Health Care Policy and Research, Executive Office Center, 2101 E. Jefferson Street, Suite 601, Rockville, Maryland 20852, (301) 227–8441.

Dated: June 16, 1992.

J. Jarrett Clinton,

Administator, AHCPR.

[FR Doc. 92–14709 Filed 6–22–92; 8:45 am]

BILLING CODE 4160–90–M

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Drug Abuse Advisory Committee

Date, time, and place. July 14 and 15, 1992, 9 a.m. Holiday Inn Crowne Plaza, Plaza I, 1750 Rockville Pike, Rockville, MD.

Type of meeting and contact person. Open public hearing, July 14, 1992, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; open committee discussion, July 15, 1992, 9 a.m. to 12 m.; closed committee deliberations, 12 m. to 5 p.m.; Lee L. Zwanziger, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee advises the agency on the scientific and medical evaluation of information gathered by the Department of Health and Human Services and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before June 30, 1992, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On July 14, 1992, the committee will discuss labeling issues relating to the pregnancy categories for nicotine-containing dosage units used for smoking cessation, and data on the abuse and epidemiology of dextromethorphan in order to assess public health problems reported to FDA and other government agencies. On July 15, 1992, the committee will discuss procedures and policies for, and approaches to, the study of hallucinogenic drugs.

Closed committee deliberations. The committee will discuss trade secret and/or confidential commercial information relevant to pending investigational new drug applications. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of

personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative session to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: June 17, 1992.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 92-14711 Filed 6-22-92; 8:45 a.m.]

BILLING CODE 4160-01-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-92-3459]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 17, 1992.

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Selection of a Financially Sound and Responsible Insurance Company—(FR-3023).

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: This information is necessary in order to ensure that an insurance company is duly authorized to conduct business in the state in which the Public Housing Agency/Indian Housing Authority is located. The information will also be used to approve or disapprove the selection of the insurance company.

Form Number: None.

Respondents: State or Local Governments.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	30		1		16.27		488

Total Estimated Burden Hours: 488.

Status: New.

Contact: Art Methvin, HUD (202) 708-1872, Jennifer Main, OMB, (202) 395-6880.

Dated: June 17, 1992.

[FR Doc. 92-14691 Filed 6-22-92; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-92-3460]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: June 17, 1992.

Kay Weaver,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Compliance Inspection Report—Mortgagee's Assurance of Completion.

Office: Housing.

Description of the Need for the Information and its Proposed Use: Form HUD–92051 is used by HUD staff and private inspectors to report the status of repair requirements on existing or proposed construction cases. Form HUD–92300 will be used by mortgage companies for establishing escrows for incomplete repairs or construction.

Form Number: HUD–92051 and HUD–92300.

Respondents: Businesses or Other For-Profit.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–92051	14,000		250		.25		875,000
HUD–92300	14,000		1		.25		3,500

Total Estimated Burden Hours: 878,500.

Status: Extension.

Contact: Ken Crandall, HUD, (202) 708–2720. Jennifer Main, OMB, (202) 395–6880.

Dated: June 17, 1992.

[FR Doc. 92–14692 Filed 6–22–92; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–92–3461]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, rein statement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

John T. Murphy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Urban Development Action Grant (UDAG) Program.

Office: Community Planning and Development.

Description of the Need for the Information and its Proposed Use: The information will be provided to HUD by local governments for evaluation of UDAG project applications, monitoring progress and closing out funded projects.

Form Number: HUDS–3440, 3441, 3442, 3443A, 3444 and 3446.

Respondents: State or Local Governments.

Frequency of Submission: On Occasion, Semi-Annually and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Semi-Annual Progress Report	450		2		1		900
Closeout	570		1		4		2,280
Recordkeeping	1,020		1		20		20,400

Total Estimated Burden Hours: 23,580.

Status: Revision.

Contact: Shelia Platoff, HUD, (202) 708–2085. Jennifer Main, OMB, (202) 395–6880.

Dated: June 17, 1992.

[FR Doc. 92–14693 Filed 6–22–92; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indiana Gaming Regulatory Act of 1988 (Pub. L 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority has approved a Tribal-State Compact between the Nooksack Indian Tribe of Washington and the State of Washington as submitted on June 9, 1992.

DATES: This action is effective June 23, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Ronal Eden, Bureau of Indiana Affairs, Washington, DC 20240, (202) 208–3473.

Dated: June 15, 1992.

David Mathewson,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 92–14719 Filed 6–22–92; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[UT–060–02–4211–09]

Notice of Availability of Draft Castlegate Coalbed Methane Project Environmental Impact Statement

AGENCY: Bureau of Land Management, Moab District, Price River Resource Area, Utah.

ACTION: Notice of availability of the Draft Castlegate Coalbed Methane Project Environmental Impact Statement.

SUMMARY: In accordance with section 202 of the National Environmental Policy Act of 1969, a draft Environmental Impact Statement has been prepared for the Castlegate Coalbed Methane Project.

Cockrell Oil Corporation of Houston, Texas, proposes to develop its Federal, state, and private leases in the Emma Park area of Carbon County, Utah, to produce coalbed methane gas.

The Castlegate Coalbed Methane Project involves a variety of elements. Up to 124 wells would be drilled and access roads constructed to each well site. Along the access roads, pipeline corridors would be constructed to carry gas from the wells, produced water from the wells, electrical lines to the well sites, and high-pressure gas from the compressor facility to each well. The high-pressure gas would be used in a gas-lift system to lift the produced water from the coal seams.

Gas would be treated to remove water, CO_2, and be compressed for delivery into a gas sales pipeline 14 miles long, which would connect with an existing interstate pipeline.

Produced water would be treated by reverse osmosis (RO) to reduce the concentration of total dissolved solids (TDS) down to concentrations that are allowable for surface discharge. RO would result in approximately 80 percent of the produced water being acceptable for surface discharge, the remaining 20 percent would be discharged into evaporation pits. The remaining concentrate from the evaporation pits would be pumped into injection wells.

Copies of the Draft EIS will be available at libraries in Moab, Price, Castle Dale, and Huntington, Utah. Copies will also be available from the Moab District Office, 82 East Dogwood, Moab, Utah 84532, and the Price River Resource Area Office, 900 North 700 East, Price, Utah 84501, (801–637–4584), Utah State Office, 324 South State, P.O. Box 45155, Salt Lake City, Utah 84145–0155.

DATES: Written comments on the draft EIS must be submitted no later than Wednesday, August 19, 1992. Oral and/or written comments may also be presented at a public meeting to be held July 29, 1992 in the Council Chambers of the Carbon County Court House located at 120 East Main Street, Price, Utah.

ADDRESSES: Written comments on the document should be addressed to: Roger Zortman, District Manager, Bureau of Land Management, Moab District Office, P.O. Box 970, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: Daryl Trotter, Planning and Environmental Coordinator, Moab District Office, Moab, Utah; phone (801) 259–6111.

SUPPLEMENTARY INFORMATION: The purpose of this EIS is to provide decision makers and the public with information pertaining to Cockrell's proposal, and to disclose environmental impacts and identify mitigation measures to reduce impacts.

The draft EIS analyzes two alternatives: disposal of all produced water into injection wells, and No Action Under the disposal of all produced water into injection wells (up to 68,000 BPD) it would require four or more injection wells to dispose of this quantity of water. Under the No Action alternative it would mean development of up to 105 wells located on private and

state mineral estate and some on Federal mineral estate.

The BLM preferred alternative is the applicant's proposed action as mitigated.

Public participation has occurred throughout the EIS process. A Notice of Intent was filed in the **Federal Register** in October 1991. A public scoping meeting was held in November 1991 in Price, Utah. All comments presented throughout the process have been considered.

Roger Zortman,

District Manager.

[FR Doc. 92–14570 Filed 6–22–92; 8:45 am]

BILLING CODE 4310–DQ–M

[NM–920–02–4120–02]

San Juan River Regional Coal Team (RCT) Meeting; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of RCT meeting.

SUMMARY: The San Juan River RCT will meet to discuss current activities on federal coal lands in New Mexico and southwest Colorado and to consider future development plans for federal coal in the region. The public is invited to attend.

The primary purposes of the meeting are to:

1. Discuss renewal of the RCT charter and possible changes;
2. Discuss the State of New Mexico Energy Plan as it relates to coal; and
3. Inform the RCT on the status of coal Preference Right Lease Applications (PRLA's).

DATE: The RCT will meet at 9 a.m. on Friday, August 7, 1992.

ADDRESS: The meeting will be held in the second floor conference room of the Bureau of Land Management Rodeo Road Office, 1474 Rodeo Road, Santa Fe, New Mexico 87505.

FOR FURTHER INFORMATION CONTACT: Ed Heffern at the Bureau of Land Management, New Mexico State Office, Branch of Solid Minerals, NM (921), P.O. Box 27115, Santa Fe, New Mexico 87502–7115, telephone (505) 438–7454.

SUPPLEMENTARY INFORMATION: At this meeting, the RCT will discuss renewal of the RCT Charter, which will expire on September 6, 1992, and whether the requirement for annual meetings should be modified. The State of New Mexico will present a summary of how coal fits into the State Energy Plan. The BLM will report on the status of the outstanding coal PRLA's in New Mexico, in particular, the work on the environmental cost estimate document for the Chaco Energy PRLA. Many changes have occurred since the BLM last published a federal coal activity map for the San Juan Basin in 1984. The BLM will present an updated automated map of federal and Indian coal leases, PRLA's and competitive tracts in the San Juan Basin. The RCT will consider information obtained from the public in making decisions at this meeting. Anyone who wishes to be scheduled to speak at the meeting or bring up additional topics for discussion should provide written copies of their remarks or suggestions to Ed Heffern, Bureau of Land Management, at the above address by Friday, July 24, 1991. Written materials will also be accepted in lieu of, or in addition to, any oral presentation.

Following is a preliminary agenda for this meeting:

1. Introduction
2. Approval of Minutes of Last Meeting
3. Annual BLM Coal Market/Industry Interest Assessment
4. Current Activity and Production on Existing Leases
   a. New Mexico
   b. Colorado
5. Activities on Fence Lake Lease
6. Status of PRLA's
7. Morris 41 Mine Rehabilitation
8. Automated Map of New Mexico Leases/Tracts/PRLA's
9. Renewal/Revision of RCT Charter
10. BLM Two-tier Organization
11. Public Comment
12. Scheduling of Next Meeting
13. Adjourn

Dated: June 17, 1992.

Larry L. Woodard,

Chairman, Regional Coal Team.

[FR Doc. 92–14688 Filed 6–22–92; 8:45 am]

BILLING CODE 4310–FB–M

Bureau of Reclamation

San Joaquin River Basin Resource Management Initiative, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of cancellation of preparation of a draft environmental impact statement (EIS).

SUMMARY: The Bureau of Reclamation (Reclamation) is canceling preparation of an EIS on the San Joaquin River Basin Resource Management Initiative (Initiative). The notice of intent appeared in the **Federal Register** (54 FR 53763) on December 29, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Denny, Project Manager, (MP–725), (916) 978–4967 or Mr. Will Tully, Environmental Specialist, (MP–750), (916) 978–5131, 2800 Cottage Way, Sacramento, CA 95825. The telecommunication number for the hearing impaired (TDD) is (916) 978–4417.

SUPPLEMENTARY INFORMATION: On December 29, 1989, Reclamation published a notice of "Intent To Prepare an Environmental Impact Statement (EIS) on the San Joaquin River Basin Resource Management Initiative (Initiative)" in the **Federal Register**. That notice indicated that the EIS to be prepared for the Initiative would include an analysis of the effects of renewing water service contracts in the Friant Division of the Central Valley Project.

Subsequently, Reclamation reconsidered the decision to include analysis of the Friant Division contracts in the proposed EIS on the Initiative. On October 1, 1990, Reclamation issued a combined notice of scoping meetings and intent (55 FR 40015) to prepare a separate EIS on the effects of renewing the water service contracts for irrigation and municipal and industrial (M&I) use in the Friant Division of the Central Valley Project. Information developed for the EIS on the water contract renewals for the Friant Division will provide data for subsequent consideration under the Initiative.

The purpose of the Initiative is to identify, evaluate, and recommend opportunities that, when implemented, will improve the water-related environment in the San Joaquin Basin (Basin) essentially downstream from the major storage developments on tributary streams and the mainstream San Joaquin River. The Initiative will focus on the needs of chinook salmon, wetlands for waterfowl, wildlife, reservoir fishery, recreation, and water quality.

The initiative is an integral part of the current local/State/Federal San Joaquin River Management Program (SJRMP) Advisory Council, Action Team, and Subcommittees that were established by California State Assembly Bill AB 3603 in September 1990. In the Initiative, opportunities to meet the Basin environmental needs and the potential of taking advantage of these opportunities without adversely impacting the municipal and industrial and agricultural communities will be explored.

Through Reclamation's planning process and in cooperation with the participating agencies in SJRMP, it will be determined what specific opportunities exist. These opportunities can then be screened for potential

implementation and evaluated in the Initiative program along with assistance from the SJRMP Advisory Council and Action Team participants.

The current status and study information from the Initiative and SJRMP activities are being diistributed to the public through the SJRMP meeting and the mailing distribution list. Reclamation will be completing the preparation of a plan of study (POS) for the Initiative by September 1992. The POS will identify the study scope including the significant milestones and work to be accomplished in evaluating opportunities that will be fully coordinated and be an integral part of SJRMP. Therefore, at the appropriate future time when specific Federal opportunities are identified and proposed to be implemented, the EIS process and evaluations for these opportunities will be initiated.

Dated: June 3, 1992.

Joe D. Hall,

Deputy Commissioner.

[FR Doc. 92–14689 Filed 6–22–92; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 13, 1992. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by July 8, 1992.

Beth L. Savage,

Acting Chief of Registration, National Register.

ALABAMA

Jefferson County

Downtown Bessemer Historic District, Roughly bounded by 21st St. N., Carolina Ave., 19th St. N., 5th Ave. N. and the Southern RR tracks, Bessemer, 92000852

ARIZONA

Maricopa County

Oakland Historic District, Roughly bounded by Fillmore St., 19th Ave., Van Buren St. and Grand Ave., Phoenix, 92000847

Woodland Historic District, Roughly bounded by Van Buren St., Seventh Ave., Adams St. and 15th Ave., Phoenix, 92000839

Pima County

Colossal Cave Preservation Park Historic District, Jct. of Old Spanish Trail and Colossal Cave Rd.. Vail. 92000850

CALIFORNIA

Placer County

Michigan Bluff—Last Chance Trail, From Michigan Bluff NE to Last Chance, Michigan Bluff vicinity, 92000854

FLORIDA

Volusia County

White Hall, 640 Second Ave., Daytona Beach, 92000849

IOWA

Greene County

St. Patrick's Catholic Church, Cedar, 4 mi. W of Churdan on E 19, .5 mi. N on gravel rd., Churdan vicinity, 92000840

MINNESOTA

Lake County

MADEIRA (Schooner—Barge) Shipwreck (Minnesota's Lake Superior Shipwrecks MPS), Address Restricted, Beaver Bay vicinity, 92000843

ONOKO (Bulk Freight Steamer) Shipwreck (Minnesota's Lake Superior Shipwrecks MPS), Address Restricted, Knife River vicinity, 92000845

St. Louis County

Height of Land Portage (Portage Trails in Minnesota MPS), Off Co. Rd. 138, Embarrass, White and Pike Townships, Embarrass vicinity, 92000842

THOMAS WILSON (Whaleback Freighter) Shipwreck (Minnesota's Lake Superior Shipwrecks MPS), Address Restricted, Duluth vicinity, 92000844

MISSISSIPPI

Attala County

First Presbyterian Church, Old, Jct. of Huntington and Washington Sts., Kosciusko, 92000846

Copiah County

Willing, Co.. William James, House, 272 S. Jackson St., Crystal Springs, 92000835

Lee County

Old Superintendent's House, Tupelo Fish Hatchery, 111 Elizabeth St., Tupelo, 92000837

Noxubee County

McGeehee—Ames House, Magnolia Dr. S of jct. with US 45, Macon vicinity, 92000853

NEW YORK

Suffolk County

Ockers, Jacob, House, 965 Montauk Hwy., Oakdale, 92000838

TENNESSEE

Hamilton County

Turnbull Cone and Machine Company, 1400 Fort and W. Fourteenth Sts., Chattanooga, 92000848

Sumner County

Oakland, 1995 Hartsville Pike, Gallatin vicinity, 92000841

WISCONSIN

Vilas County

Wallila Farm, Address Restricted, Phelps, 92000851

WYOMING

Big Horn County

ML Ranch, Off Alt. US 14 near E shore of Bighorn Lake, 13 mi. E of Lovell, Bighorn Canyon National Recreation Area, Lovell vicinity, 92000836.

[FR Doc. 92–14585 Filed 6–22–92; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–557–559 (Preliminary)]

New Steel Rails From Japan, Luxembourg, and the United Kingdom; Import Investigation

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury[2] by reason of imports from the United Kingdom of new steel rails,[3] provided for in subheadings 7302.10.10 and 8548.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Further, the Commission determines,[4] pursuant to section 733(a) of the Tariff

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Newquist and Vice Chairman Brundsdale determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the United Kingdom.

[3] For purposes of these investigations, the product covered is new steel rail, except light rail and girder rail, of other than alloy steel, and over 30 kilograms per meter. New steel rail includes standard T rail, crane rail and contact rail (electrical rail). Standard T rails are both heat-treated and not heat-treated. The heat-treated T rails are generally regarded as a "premium" standard T rail.

[4] Chairman Newquist and Vice Chairman Brunsdale determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Japan and Luxembourg.

Act of 1930, that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Japan and Luxembourg of new steel rails that are alleged to be sold in the United States at LTFV.

Background

On May 1, 1992, a petition was filed with the Commission and the Department of Commerce by counsel on behalf of Steelton Rail Products & Pipe Division, Bethlehem Steel Corp., Steelton, PA, and CF&I Steel Corp., Pueblo, CO, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of new steel rails from Japan, Luxembourg, and the United Kingdom. Accordingly, effective May 1, 1992, the Commission instituted antidumping investigations Nos. 731–TA–557–559 (Preliminary). Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 8, 1992 (57 FR 19931). The conference was held in Washington, DC, on May 22, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 15, 1992. The views of the Commission are contained in USITC Publication 2524 (June 1992), "entitled "New Steel Rails from Japan, Luxembourg, and the United Kingdom: Determinations of the Commission in Investigations Nos. 731–TA–557–559 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: June 16, 1992.

By Order of The Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–14757 Filed 6–22–92; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decrees in United States v. Triad Salvage, Inc. et al. Under the Clean Air Act

In accordance with Departmental Policy, 28, CFR 50.7, notice is hereby given that on June 10, 1992, four Partial Consent Decrees in *United States* v. *Triad Salvage, Inc., et al.* were lodged with the United States District Court for the Northern District of Ohio.

The four Partial Consent Decrees resolve the United States' claims against defendants Triad Salvage, Inc. ("Triad Salvage"), Consolidated Rail Corporation ("Conrail"), Columbia Iron and Metal Company ("Columbia"), and Acme Scrap Iron and Metal Company ("Acme") for violations of section 112 of the Clean Air Act, 42 U.S.C. 7412, and the National Emissions Standards for Hazardous Air Pollutants for Asbestos ("asbestos NESHAP"), 40 CFR part 61, subpart M. The complaint in this action alleged that the defendants violated the Clean Air Act and the asbestos NESHAP during asbestos removal from several boats in Ashtabula, Ohio.

The four Partial Consent Decrees require each defendant to comply with the asbestos NESHAP and contain additional requirements and stipulated penalties to deter future misconduct. Under the four Partial Consent Decrees, Triad Salvage and Columbia will each pay a $3,000 civil penalty, Columbia will pay a $12,500 civil penalty, and Conrail will pay a $25,000 civil penalty. In addition, Conrail is required to regularly inspect the site for asbestos material and to submit quarterly reports of inspections to the United States Environmental Protection Agency and the Ohio Environmental Protection Agency.

The Department of Justice will receive comments relating to the proposed four Partial Consent Decrees for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Acting Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044. All comments should refer to *United States* v. *Triad Salvage, Inc. et al.*, DOJ Ref. No. 90–5–2–1–1247.

The proposed Consent Decrees may be examined at the Region V Office of the U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the proposed Consent Decrees may also be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004 [(202) 347–7829]. Any request for a copy of the Decrees should be accompanied by a check in the amount of $12.75 (51 pages at 25 cents per page reproduction cost) payable to "Consent Decree Library."

John C. Cruden,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 92–14705 Filed 6–22–92; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL SCIENCE FOUNDATION

Committee of Visitors (COV): Advisory Committee for Education and Human Resources Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Date & Time: July 9–10, 1992: 8 a.m. to 5 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 540 B, Washington, DC.

Type of Meeting: Closed.

Contact Person: Griselio Moranda, 1800 G Street, NW., room 1225, Washington, DC 20550. Telephone: 202/357–7552.

Purpose of Meeting: To provide oversight review of the Research Careers for Minority Scholars Program.

Agenda: To carry out Committee of Visitors review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Reason for Closing: The meeting is closed to the public because the review of proposal actions include privileged intellectual property and personal information that could harm individuals, if they were disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: June 17, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92–14657 Filed 6–22–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Pennsylvania Power and Light Company

and Allegheny Electric Cooperative, Inc. (the licensees), for operation of the Susquehanna Steam Electric Station, Units 1 and 2, located in Salem County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from a requirement in section III.D.1(a) of appendix J to 10 CFR part 50, which requires in part that the third test in each set of three tests intended to measure the primary reactor containment overall integrated leakage rate (Type A tests) shall be conducted when the plant is shut down for the 10-year plant inservice inspections (ISI).

The proposed action is in accordance with the licensee's request for an exemption dated August 16, 1991.

The Need for the Proposed Action

The proposed exemption is required in order to provide the licensee flexibility in meeting the same requirement for three tests in 10 years without having to perform back-to-back ILRTs in back-to-back refueling outages at a significant cost but without any significant increase in public health and safety.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed exemption and concludes that these actions would not affect the integrity of the plant's primary containment with respect to potential radiological releases to the environment in the event of a severe transient or an accident up to and including the design basis accident (DBA). Under the assumed conditions of the DBA, the licensee must demonstrate that the calculated offsite radiological doses at the plant's exclusion boundary and low population zone outer boundary meet the guidelines in 10 CFR part 100. Part of the licensee's demonstration is accomplished by the periodic ILRTs conducted about every 40 months to verify that the primary containment leakage rate is equal to or less than the design basis leakage rate used in its calculations demonstrating compliance with the guidelines in 10 CFR part 100.

The licensee has successfully conducted a number of these ILRTs to data. The most recent ILRTs were completed on Unit 1 in April 1992 and on Unit 2 in November 1989 during the last respective refueling outages and was the second and third Type A tests since the units started operation in 1982 and 1985, respectively, for Units 1 and 2. The next ILRT will most probably be conducted in mid 1995 for Unit 1 and late 1992 for Unit 2 assuming approval of the subject exemption. The 10-year ISI is scheduled during the forthcoming seventh refueling outage for Unit 1, and sixth refueling outage for Unit 2, which are presently scheduled to start in November 1993 and May 1994 respectively. This schedule for the 10-year ISI is in compliance with the provisions of Section XI of the ASME Boiler and Pressure Vessel Code and Addenda as required by 10 CFR 50.55a.

The proposed exemption request changes to decouple the schedule of the third Type A test (ILRT) from that of the 10-year ISI will not in any way compromise the leak-tight integrity of the primary containment required by appendix J to 10 CFR part 50 since the leak tightness of the containment will continue to be demonstrated by the periodic ILRTs. Additionally, these actions will not affect the existing requirement in section III.D.1(a) of appendix J that three ILRTs be performed at approximately equal 40-month intervals during each 10-year service period. Further, the proposed uncoupling does not affect the structural integrity of the structures, systems and components subject to the requirements of 10 CFR 50.55a. Accordingly, there will be no increase in either the probability or the amount of radiological release from Susquehanna Steam Electric Station, Units 1 and 2, in the event of a severe transient or accident. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed exemption involves a change to surveillance and testing requirements. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternative will equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This proposed action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Susquehanna Steam Electric Station, Units 1 and 2, dated June 1981.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effects on the quality of the human environment. The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the application for exemption dated August 16, 1991, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes Barre, Pennsylvania 18701.

Dated at Rockville, Maryland, this 16th day of June 1992.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Project Directorate I-2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-14753 Filed 6-22-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket 50-293]

Boston Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Signficiant Hazards Consideration Determination and Opportunity for Hearing, Correction

The first line of subject text published on May 13, 1992 (57 FR 20509) should be corrected to read "The proposed amendment would remove the words 'each operating cycle' for Main Steam Isolation Valve and personnel air lock door testing."

Dated at Rockville, Maryland this 17th day of June 1992.

For the Nuclear Regulatory Commission.

Ronald B. Eaton,

Senior Project, Manager, Project Directorate I-3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 92-14755 Filed 6-18-92; 8:45 am]

BILLING CODE 7590-01-M

RESOLUTION TRUST CORPORATION

Central Address for Filing Foreclosure Notices and Consent Requests

AGENCY: Resolution Trust Corporation.

ACTION: Notice of Central Address.

SUMMARY: The Resolution Trust Corporation on May 7, 1992 [57 FR 19651] published for comment an Interim Statement of Policy on Foreclosure Consent and Redemption Rights. The Policy requires that foreclosure notices and consent requests be delivered to a central address.

DATES: This Notice of Central Address is effective June 23, 1992.

FOR FURTHER INFORMATION CONTACT: Prem Dhawan, Asset Specialist, Office of Asset Disposition, (214) 443–4816, or Joseph W. Schantz, Asset Specialist, Asset Management and Sales Division, (202) 416–7302. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The central address where all foreclosure notices and consent requests must be sent is: Resolution Trust Corporation, Foreclosure Consent Notice Clearance Center, 3500 Maple Avenue, Lock Box #42, Dallas, Texas 75219.

Dated at Washington, DC, this 16th day of June, 1992.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Secretary.

[FR Doc. 92–14718 Filed 6–22–92; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–30809; File No. SR–CSE–92–04]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Cincinnati Stock Exchange Relating to Preferencing of Public Agency Market and Market Limit Orders by Designated Dealers

June 15, 1992.

I. Introduction and Background

On May 1, 1992, the Cincinnati Stock Exchange, Inc. ("CSE" or "Exchange") filed a proposed rule change (File No. SR–CSE–92–04) with the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and rule 19b–4 thereunder. The CSE request accelerated approval of a proposed rule change to increase from 125 to 250 the number of stocks that a Designated Dealer may preference during the CSE's preferencing rule pilot.[1] This release requests comment on and grants accelerated approval of the proposed rule change.

The preferencing rule modifies the Exchange's time priority rules to permit a market maker to act as a Dealer of the Day and have priority over same-priced market maker or professional agency interest entered prior in time to his or her bid or offer when the market maker is interacting with public agency market and marketable limit orders that he or she represents as agent. The CSE intends the rule to provide market makers with the ability to retain and execute their internal order flow at the best bid or offer, provided the public limit orders on the book have been executed at that price. The time priority rule was designed to create incentives for a market maker/dealer to direct his or her own retail orders to the CSE, permitting the market maker/dealer to preference himself or herself over other professionals with respect to order flow that the market maker/dealer is directing to the Exchange.

Originally, as a condition of Commission approval of the preferencing rule, the CSE agreed to propose the rule on a six-month pilot basis and amend the proposal to address Commission concerns regarding: (1) Short-sale arbitrage; (2) payment for order flow; (3) the number of issues that a Designated Dealer could preference during the pilot period; and (4) the length of service as a Designated Dealer. To prevent the use of preferencing to facilitate program trading, the CSE agreed to limit to 60 the number of issues that a Designated Dealer could preference.

On October 31, 1991, the Commission issued an order granting a CSE request to increase the limit on the number of issues a Designated Dealer could preference from 60 to 125.[2] The purpose of the increase was to conduct a more extensive pilot, provide the dealers with flexibility to experiment with different issue mixes, and improve the Exchange's ability to attract market makers to the National Securities Trading System. As a condition of Commission approval, the CSE agreed to provide the Commission with the following information during the extension of the pilot to aid the Commission in evaluating the effect of lifting the sixty-issue cap to 125: (1) A list indicating how many Designated Dealers are preferencing in more than sixty issues; (2) a list identifying, in each such case, the issues being preferenced; and (3) reports indicating the volume of preferenced trades in each issue. Further, the CSE agreed that, if the Commission so requested, it would provide available information relating to specific intervals of time, and that it would not use dealer preferencing for index arbitrage purposes until permitted by the Commission.[3]

II. Description of the Proposal and Exchange Rationale

The CSE proposes increasing from 125 to 250 the number of issues that a Designated Dealer may preference during the pilot phase of the CSE preferencing rule. The CSE states that it is limiting its request by 125 issues to expand the pilot in a controlled manner with opportunity for Commission review. As a condition of increasing the limit to 250 issues, the CSE has agreed to continue to abide by the conditions, stated above, for lifting the 60 issue limit to 125. The CSE included in its filing a report indicating the number of dealers preferencing in more than sixty issues and the share and trade volume of preferenced issues.

III. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

IV. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange Solicited comments on an unrestricted preferencing rule from other Intermarket Trading System participants prior to its initial preference filing.

V. Discussion

The Commission finds that the proposal to increase the limit on the number of issues a Designated Dealer can preference to 250 is consistent with the Act and the rules and regulations thereunder applicable to the Exchange. Specifically, the proposal is consistent with section 6(b)(5) because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to,

[1] See Securities Exchange Act Release No. 30353 (February 7, 1992), 57 FR 5918.

[2] See Release No. 34–29885 (October 30, 1991), 56 FR 56876.

[3] *Id.*

and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that the proposal addresses the CSE's legitimate desire to attract additional business to the exchange. Furthermore, the CSE preferenced issues volume reports indicate that the preferencing rule has been successful in increasing the amount of business a designated dealer transacts on the Exchange, without being used as a tool for programmed trading.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing. The Commission believes that accelerated approval will provide the CSE with the ability to determine the effect of the increased limit on market makers' willingness to participate in the preferencing program before the CSE has to make the determination as to whether to seek permanent approval of its preferencing rule.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any other person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and be submitted by July 14, 1992.

VII. Conclusion

Based on the foregoing, the Commission has concluded that approval of the proposed rule change, which increases the maximum number of stocks that a Designated Dealer can preference, is consistent with the requirements of the Act and in particular section 6(b)(5) of the Act, and that it is appropriate to grant accelerated approval of the proposed rule change.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposal to increase the limit on the number of issues a Designated Dealer can preference to 250 be, and hereby is, approved to the end of the pilot period, August 7, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-14737 Filed 6-22-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30812; File No. SR-Amex-92-19]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Partial Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to Procedures for Handling and Executing Market-on-Close Orders

June 15, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on June 11, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange has requested accelerated approval of the proposed rule change pursuant to section 19b)(2) of the Act. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. At the same time, the Commission is granting accelerated partial approval to the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to (1) extend, until September 15, 1992, the pilot program amending Rule 109 [1] to provide that the procedures currently used to execute market-on-close ("MOC") orders in certain stocks on expiration Fridays [2] be made applicable to all MOC orders in all Amex-listed stocks on every trading day; and (2) obtain permanent approval for the pilot program prior to its expiration on September 15, 1992.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

In June, 1991, the Commission approved, for a one-year pilot period,[3] an Exchange proposal which provides that the procedures used to execute all MOC orders on every trading day be the same as those procedures currently used to execute MOC orders on expiration Fridays in stocks that are components of a stock index on which an option and/or stock contract is traded (*e.g.*, the Standard and Poor's 500 Composite Stock Price Index). The procedures, in place since June 1991, provide that all buy and sell MOC orders be paired-off against each other, and if there is an imbalance, that the imbalance be executed against the closing bid if it is on the sell side and against the closing offer if it is on the buy side. The paired-off orders are executed at the same price as the imbalance. If there is no imbalance, the paired-off orders are executed at the price of the last sale on the Exchange prior to the close of trading in that stock. Thus, this procedure assures that all MOC orders in a particular stock will be executed at the same price. In addition, those orders that are paired-off in implementing the procedure are reported as "stopped stock", so that customers with unexecuted limit orders on the specialist's book will know that the MOC transaction was executed outside the regular auction market, and that for this reason their orders may have not participated.

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[1] This pilot program was approved by the Commission for a one year period beginning on June 14, 1991 and expiring on June 14, 1992. See Securities Exchange Act Release No. 29312 (June 14, 1991), 56 FR 28583 (June 21, 1991).

[2] Expiration Friday is the one trading day each month when stock index futures, stock index options and options on stock index futures expire or settle concurrently.

[3] See note 1, *supra.*

The Exchange recently filed a report with the commission detailing its experience with these procedures for the execution of MOC orders during the one-year pilot program.[4] As the report indicates, on the days studied [5] the MOC procedures did not, in the Amex's view, result in an increase in volatility and only on three occasions was there an increase in order flow during the final hour of trading on the Exchange. An analysis of the trading in those stocks which experienced an increase in order flow did not, Amex believes, reveal an effort to manipulate the closing price.

The Exchange now seeks to (1) extend the pilot program an additional three months in order to provide the Commission with sufficient time to study the Exchange's report, and (2) obtain permanent approval of the proposal prior to the expiration date of the pilot program on September 15, 1992.

(2) Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR-Amex-92-19 and should be submitted by July 14, 1992.

IV. Discussion and Order Granting Accelerated Partial Approval of the Proposed Rule Change

After careful consideration, the Commission has concluded, for the reasons set forth below, that the portion of the proposed rule change to extend the pilot for an additional three months is consistent with section 6 of the Act [6] and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade, to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

In the order originally approving the MOC procedures for a one-year pilot period, the Commission directed the Amex to submit a report, prior to March 14, 1992, evaluating the effects of the MOC procedures over the pilot period. The Commission requested submission of the report three months prior to the expiration of the pilot program in order to have ample time in which to evaluate the Amex's experience with the MOC procedures. The Commission believed that the report would help it determine whether the MOC pilot should be extended beyond its expiration or, in the alternative, granted permanent approval. The Amex, however, did not submit the required report until June 10, 1992.

The Commission believes that a three-month extension of the proposal, until September 15, 1992, is appropriate in order to provide the Commission with additional time to review the submitted data regarding the MOC procedures. After reviewing such data, the Commission should be able to make a decision with regard to the Amex's proposal requesting permanent approval of the MOC procedures. The Commission also believes that during the next three months of the pilot, the Amex should continue to monitor the closing MOC procedures and report to the Commission any increased volatility or order flow during the last hour of trading.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the proposed rule change in the **Federal Register**. Accelerated approval enables the Exchange to continue, on an uninterrupted basis, the procedures currently used for handling and executing MOC orders.[7] The additional three-month continuation of the pilot program should allow the Commission sufficient time to review the Exchange's report and determine whether approval of the procedures on a permanent basis is consistent with the Act. Furthermore, the Commission solicited comment on the Amex's original MOC proposal, and no comments were received on the proposal.

V. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act [8] that the proposed rule change be, and hereby is, approved for a pilot period ending on September 15, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-14736 Filed 6-22-92; 8:45 am]

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[4] See letter from Claire P. McGrath, Special Counsel, Legal & Regulatory Policy, Amex, to Mary Revell, Branch Chief, Division of Market Regulation, SEC, dated June 10, 1992.

[5] The Amex's report concentrates on MOC orders entered on expiration Fridays from June 1991 through March 1992.

[6] 15 U.S.C. 78f (1988).

[7] The Commission notes that it also recently granted permanent partial approval to a substantially similar proposal submitted by the New York Stock Exchange, Inc. ("NYSE") [see Securities Exchange Act Release No. 30004 (November 27, 1991), 56 FR 63533 (order granting partial approval to File No. SR-NYSE-91-35)]. The portion of the NYSE's proposal which was permanently approved by the Commission makes the NYSE's procedures used for the execution of MOC order on expiration Fridays applicable to every trading day.

[8] 15 U.S.C. 78s(b)(2) (1988).

[9] 17 CFR 200.30-3(a)(12) (1991).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

June 17, 1992

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

ADT Limited
(Warrants) (pur. 1 common at $10) (File No. 7–8620)
Alcatel Alsthom Compagnie Generale d' Electric
American Depository Shares (rep ⅕ share FF40) (File No. 7–8621)
Alza Corp.
Class A Common Stock, $0.01 Par Value (File No. 7–8622)
Aracruz Celulose, S.A.
American Depository Shares (rep 5 shares of Class B Stock) (File No. 7–8623)
Boston Scientific Corp.
Common Stock, $0.01 Par Value (File No. 7–8624)
Conagra, Inc.
Class E Cum. Conv. Vot. Pfd. Stock (File No. 7–8625)
First Interstate Bancorp
Depository Shares (rep ⅛ share of 9% Pfd. Stock, Series G) (File No. 7–8626)
First USA, Inc.
Common Stock, $0.01 Par Value (File No. 7–8627)
Kohl's Corp.
Common Stock, $0.01 Par Value (File No. 7–8628)
Medical Care International, Inc.
Common Stock, $0.01 Par Value (File No. 7–8629)
MuniYield New Jersey Fund, Inc.
Common Stock, $0.10 Par Value (File No. 7–8630)
Nuveen (John), Co.
Class A Common Stock, $0.01 Par Value (File No. 7–8631)
Santa Fe Energy Resources, Inc.
Conv. Pfd. Stock, 7% Ser. $0.01 Par Value (File No. 7–8632)
Stifel Financial Corp.
Common Stock, $0.15 Par Value (File No. 7–8633)

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 9, 1992, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–14667 Filed 6–22–92; 8:45 am]

BILLING CODE 8010–01–M

[File No. 500–1]

Programming & Systems, Inc.; Order of Suspension of Trading

June 18 1992.

It appears to the Securities and Exchange Commission that the most recently filed annual financial statements of Programming & Systems, Inc., for its fiscal year ended February 28, 1991, substantially and materially overstate the company's income.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. (e.d.t.), June 18, 1992 through 11:59 p.m. (e.d.t.) on July 1, 1992.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–14738 Filed 6–22–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18785; 811–2003]

Renaissance Fund, Inc.; Application

June 15, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Renaissance Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 26, 1991, and amended on January 22, and June 8, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 10, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 70 Maple Avenue, Katonah, New York 10536.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Elizabeth G. Osterman, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

APPLICANT'S REPRESENTATIONS: 1. Applicant is a closed-end diversified investment company, organized as a corporation under the laws of the State of Maryland. The SEC's records indicate that on May 8, 1986, applicant filed a registration statement on Form N–2 under the Act to register under the Act and the Securities Act of 1933. The registration statement was declared effective on April 15, 1987, after which time applicant commenced its initial public offering.

2. Renaissance Advisors, Inc. ("Advisors") was applicant's investment adviser and is wholly-owned by Eric S. Emory. Eric S. Emory was applicant's president and also a member of applicant's board of directors. On March 26, 1991, the United States District Court for the Southern District of New York entered a final judgment (No. 91 Civ. 2053) (S.D.N.Y. Mar. 26, 1991) against Advisors and Mr. Emory on the basis of various violations of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Act (the "Order"). Pursuant to the Order, Advisors and Mr. Emory were ordered, among other things, to use their best efforts to cause applicant to deregister as an investment company under the Act.

3. There are no securityholders to whom distributions in complete liquidation of their interests have not been made, with the exception of one shareholder who has not returned his shares for redemption. The assets attributable to that shareholder have been placed in escrow with the Bank of New York (Katonah branch) for the benefit of the shareholder.

4. Applicant has no debts or other liabilities that remain outstanding.

5. In a supplemental letter dated June 15, 1992, counsel to applicant advised the staff that applicant would be dissolved under Maryland law promptly after the issuance of the order requested in its application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-14739 Filed 6-22-92; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

Bureau of Diplomatic Security

[Public Notice 1640]

Public Information Collection Requirements Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35.

SUMMARY: The Department of State is requesting approval for the collection of information from nonresident aliens seeking to acquire the status of an alien lawfully admitted for permanent residence during Fiscal Years 1993 and 1994 under the provisions of section 132 of the Immigration Act of 1990, Public Law 101-649, as amended. Section 132, as amended, authorizes the issuance of 40,000 immigrant visas per year during fiscal years 1993 and 1994 to aliens who are natives of certain countries and who submit applications for selection during time periods to be specified by the Department of State. Proposed regulations for the implementation of section 132, as amended, were published by the Department of State on April 27, 1992, 57 FR 15266.

Collection of the information required is necessary to permit implementation of the provisions of section 132. Without collection of the information, there can be no implementation of the program and, thus, no issuance of the 40,000 immigrant visas authorized by law. The proposed information collection contains the following:

1. Type of review requested—extension of previously authorized information collection.

Originating Office—Bureau of Consular Affairs.

Title of information collection—application for selection for consideration for visa issuance under section 132 of Public Law 101-649, as amended.

Frequency—Once a year during fiscal years 1992 and 1993.

Form No.—None. (Applicants will be permitted to provide the required information on paper of their choice. The only requirement is that the information be typed or printed legibly in the Roman alphabet.)

Respondents—Nonresident aliens hoping to be selected for immigrant visa issuance under the provisions of section 132 of Public Law 101-649, as amended.

Estimated number of respondents—between 2,000,000 and 3,500,000.

Average hours per response—0.25.

Total estimated burden hours—between 500,000 and 1,750,000.

Section 3504(h) of Public Law 96-511 applied.

Additional information or comments: Comments and questions should be directed to (OMB) Lyn Liu at (202) 395-7430.

Dated: June 17, 1992.

Sheldon J. Krys,

Assistant Secretary for Diplomatic Security.

[FR Doc. 92-14741 Filed 6-22-92; 8:45 am]

BILLING CODE 4710-43-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ended June 12, 1992

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 48183.
Date filed: June 8, 1992.
Parties: Members of the International Air Transport Association
Subject: TC31 Reso/P 0930 dated June 5, 1992. South Pacific Expedited Resos 002j (r-l) and 204c (4-2).
Proposed Effective Date: July 15, 1992.
Docket Number: 48184.
Date filed: June 8, 1992.
Parties: Members of the International Air Transport Association
Subject: Telex dated May 26, 1992. Mail Vote 574 (Japan-China Fares)

r-1—0431	r-6—092f
r-2—0531	r-7—092v
r-3—063i	r-8—014a
r-4—0651	r-5—085hh

Proposed Effective Date: July 20, 1992
Proposed Effective Date: July 20, 1992.
Docket Number: 48190.
Date filed: June 10, 1992.
Parties: Members of the International Air Transport Association
Subject: Telex dated June 10, 1992. Reso 024f—Local Currency Charges—Lebanon.
Proposed Effective Date: June 15, 1992.
Docket Number: 48191.
Date filed: June 10, 1992.
Parties: Members of the International Air Transport Association
Subject: Telex dated June 2, 1992. Mail Vote 575 (Cargo Rates From China).
Proposed Effective Date: July 1, 1992.
Docket Number: 48193.
Date filed: June 12, 1992.
Parties: Members of the International Air Transport Association
Subject: PAC/Reso/374 dated June 1, 1992. Expedited Resolutions R-1 To R-4.
Proposed Effective Date: July 1/September 1, 1992.
Docket Number: 48194.
Date filed: June 12, 1992.
Parties: Members of the International Air Transport Association
Subject: Telex dated June 5, 1992. TC31 Mail Vote 576—US Fares to Port of Spain/Trinidad/Tobago.
Proposed Effective Date: July 1, 1992.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-14679 Filed 6-22-92; 8:45 am]

BILLING CODE 4910-62-M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended June 12, 1992

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedure. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48196.
Dated Filed: June 12, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 10, 1992.

Description: Application of Air Columbus—Transporte Aereo Nao Regular, S.A., pursuant to section 402 of the Act and subpart Q of the Regulations, requests a foreign air carrier permit for authority to engage in charter foreign air transportation, carrying persons and/or property between any point or points in Portugal and any point or points in the United States.

Docket Number: 48135.

Date filed: June 8, 1992.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 6, 1992.

Description: Amendment to the Application of Carnival Air Lines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, requests that it's application be amended by deleting existing paragraph 4 and substituting the following:

"4. Applicant requests the issuance of a Certificate of Public Convenience and Necessity which would authorize it to engage in scheduled foreign air transportation of persons, property and mail as follows:

(a) Between New York, NY, San Juan/Ponce/Aquadilla, Puerto Rico or Miami, Florida on the one hand and Santo Domingo or Puerto Plata Dominican Republic on the other. (b) Between New York, NY or San Juan/Ponce/Aquadilla, Puerto Rico on the one hand and Georgetown, Guyana, on the other. (c) Between San Juan, Puerto Rico on the one hand and Toronto, on the other."

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 92-14678 Filed 6-22-92; 8:45 am]

BILLING CODE 4910-62-M

Order Adjusting International Cargo Rate Flexibility Level

Policy Statement PS-109, implemented by Regulation ER-1322 of the Civil Aeronautics Board and adopted by the Department, established geographic zones of cargo pricing flexibility within which certain cargo rate tariffs filed by carriers would be subject to suspension only in extraordinary circumstances.

The Standard Foreign Rate Level (SFRL) for a particular market is the rate in effect on April 1, 1982, adjusted for the cost experience of the carriers in the applicable ratemaking entity. The first adjustment was effective April 1, 1983. By Order 92-5-43, the Department established the currently effective SFRL adjustments.

In establishing the SFRL for the two-month period beginning June 1, 1992, we have projected non-fuel costs based on the year ended December 31, 1991 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 92-6-29 cargo rates may be adjusted by the following adjustment factors over the April 1, 1982 level:

Atlantic	1.2923
Western Hemisphere	1.1659
Pacific	1.6025

For Further Information Contact: Keith A. Shangraw (202) 366-2439.

By the Department of Transportation: June 17, 1992.

Patrick V. Murphy,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-14676 Filed 6-22-92; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-92-17]

Petition for Exemption; Summary of Petitions Received; Disposition of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions; Correction.

SUMMARY: This action makes a correction to the **DATES** in a notice of petitions for exemption published on June 16, 1992 (57 FR 26885). This action corrects that error.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 8, 1992.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of Chief Counsel, attn: Rules docket (AGC-10), Petition Docket No._____ 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. C. Nick Spithas, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9704.

SUPPLEMENTARY INFORMATION: The document was published June 16, 1992 (57 FR 26885). In the **DATES** heading, the comment closing date is in error. Please change "June 26, 1992" to read "July 8, 1992".

Denise Castaldo,

Manager, Program Management Staff.

[FR Doc. 92-14696 Filed 6-22-92; 8:45 am]

BILLING CODE 4910-13-M

Aviation Rulemaking Advisory Committee, General Aviation Operations Subcommittee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration General Aviation Operations Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on July 14, 1992, at 10 a.m.

ADDRESSES: The meeting will be held at the Aircraft Owners and Pilots Association, 500 E Street, SW., suite 920, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Myres, Executive Director, General Aviation Operations Subcommittee, Flight Standards Service (AFS-850), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-8150; FAX: (202) 267-5230.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. II), notice is hereby given of a meeting of the General Aviation Operations Subcommittee to be held on July 14, 1992, at the Aircraft Owners and Pilots Association, 500 E Street, SW., suite 920, Washington, DC. The agenda for this meeting will include progress reports from the IFR Fuel Reserve, Definition of Emergencies, Operations over the High Seas, Minimum Safe Operating Altitude, and Experimental/Restricted Category Operations Working Groups.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, DC, on June 15, 1992.

Ron Myres,

Executive Director, General Aviation Operations Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 92-14699 Filed 6-22-92; 8:45 am]

BILLING CODE 4910-13-M

Intent To Rule on Application To Impose a Passenger Facility Charge (PFC); Cleveland Hopkins International Airport, Cleveland, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Cleveland Hopkins International Airport and use the revenue from a PFC at Cleveland Hopkins International Airport and Burke Lakefront Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 23, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, MI 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Cynthia Rich, Director of the Department of Port Control, at the following address: Cleveland Hopkins International Airport, 5300 Riverside Drive, Cleveland, OH 44135.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Department of Port Control, Cleveland Hopkins International Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Serini, Manager, Detroit Airports District Office, Willow Run Airport, East, 88209 Beck Road, Belleville, MI 48111, (313) 487-7300. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose of PFC at Cleveland Hopkins International Airport and use the revenue from a PFC at Cleveland Hopkins International Airport and Burke Lakefront Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 29, 1992 the FAA determined that the application to impose and use the revenue from a PFC submitted by Department of Port Control, City of Cleveland was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 29, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 1992

Proposed charge expiration date: July 30, 1995.

Total estimated PFC revenue: $34,952,000.

Brief description of proposed projects:

Projects To Impose and Use PFC

Cleveland Hopkins International Airport

Sound Insulate Residences
Taxiway "L" Shoulders
Extension of Taxiway "Q"

Burke Lakefront Airport Terminal Building Asbestos Encapsulation and Removal

Projects Only To Impose a PFC

Cleveland Hopkins International Airport

Lind Acquisition-Resident Relocation

Burke Lakefront Airport
Sewers for Confined Disposal Facility

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**".

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Department of Port Control, Cleveland Hopkins International Airport.

Issued in Des Plaines, Illinois, on June 10, 1992.

Larry H. Ladendorf,

Acting Manager, Airports Division Great Lakes Region.

[FR Doc. 92-14698 Filed 6-22-92; 8:45 am]

BILLING CODE 4910-13-M

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Detroit Metropolitan Wayne County Airport, Detroit, MI and Use the Revenue From a PFC at Detroit Metropolitan Wayne Country Airport, Detroit, MI and Willow Run Airport, Belleville, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Detroit Metropolitan Wayne County Airport and use the revenue from a PFC at Detroit Metropolitan Wayne County Airport and Willow Run Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 23, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert C. Braun, Director of Airports of the Charter County of Wayne, Michigan, at the following address: Wayne County Department of Public Services, Division of Airports, Detroit Metropolitan Wayne County Airport, L.C. Smith Terminal, Mezzanine, Detroit, Michigan 48242.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Charter County of Wayne, Michigan, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Peter A. Serini, Manager, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313) 487-7300. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Detroit Metropolitan Wayne County Airport and use the revenue from a PFC at Detroit Metropolitan Wayne County Airport and Willow Run Airport under the provisions of the Aviation Safety and Capacity Expansion

Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 11, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Charter County of Wayne, Michigan, was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 19, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December 1, 1992.

Proposed charge expiration date: November 30, 2024.

Total estimated PFC revenue: $1,588,093,000.

Brief description of proposed project:

Projects To Impose and Use a PFC

Detroit Metropolitan Wayne Country Airport

South Airport Access Road Construction
Stormwater Retention and Drainage Facilities Construction
Noise Berm Construction
Noise Mitigation Program

Willow Run Airport

Airport Layout Plan Update

Projects Only To Impose a PFC

Detroit Metropolitan Wayne County Airport

Midfield Domestic and International Terminal Facility Construction
Reconstruction of Existing Terminals and Concourses
Land Acquisition and Preliminary Design for a Fourth Parallel Runway

Willow Run Airport

Snow Removal Equipment Building Design and Construction
Perimeter Property Fencing and Removal of Airport Hazards
Runway 5R/23L Extension and Relocation of Ecorse Road and Utilities
Runway 14/32 Resurfacing
Snow Removal Equipment Purchase

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators filing FAA Form 1800–31 and enplaning fewer than 500 passengers per year.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT.**"

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Charter County of Wayne, Michigan, Division of Airports.

Issued in Des Plaines, Illinois, on June 12, 1992.

Larry H. Ladendorf,

Acting Manager, Airports Division, Great Lakes Region.

[FR Doc. 92–14697 Filed 6–22–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 20–92]

Treasury Notes of June 30, 1994, Series AB–1994 (CUSIP No. 912827 F7 2)

Washington, June 17, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account

in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A)), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For non-competitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one-half hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting noncompetitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal

Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Noncompetitive Bidding in all Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is not permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) *Partnerships*—Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219-3350).

Auction of 2-Year and 5-Year Notes Totaling $25,500 Million

The Treasury will auction $15,000 million of 2-year notes and $10,500 million of 5-year notes to refund $19,319 million of securities maturing June 30, 1992, and to raise about $6,175 million new cash. The $19,319 million of maturing securities are those held by the public, including $977 million currently held by Federal Reserve Banks as agents for foreign and international monetary authorities.

The $25,500 million is being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount. Tenders for such accounts will be accepted at the average prices of accepted competitive tenders.

In addition to the public holdings, Federal Reserve Banks, for their own

accounts, hold $1,854 million of the maturing securities that may be refunded by issuing additional amounts of the new securities at the average prices of accepted competitive tenders.

Details about each of the new securities are given in the attached highlights of the offerings and in the official offering circulars.

Attachment—Highlights of Treasury Offerings to the Public of 2-Year and 5-Year Notes To Be Issued June 30, 1992

June 17, 1992.

Amount Offered to the Public	$15,000 million	$10,500 million.
Description of Security:		
Term and type of security	2-year notes	5-year notes.
Series and CUSIP designation	Series AB–1994 (CUSIP No. 912827 F7 2)	Series N–1997 (CUSIP No. 912827 F8 0).
Maturity date	June 30, 1994	June 30, 1997.
Interest rate	To be determined based on the average of accepted bids.	To be determined based on the average of accepted bids.
Investment yield	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction.
Interest payment dates	December 31 and June 30	December 31 and June 30.
Minimum denomination available	$5,000	$1,000.
Terms of Sale:		
Method of sale	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.
Accrued interest payable by investor	None	None.
Key Dates:		
Receipt of tenders	Tuesday, June 23, 1992	Wednesday, June 24, 1992.
(a) noncompetitive	Prior to 12 noon, EDST	Prior to 12 noon, EDST.
(b) competitive	Prior to 1 p.m., EDST	Prior to 1 p.m., EDST.
Settlement (final payment due from institutions):		
(a) funds immediately available to the Treasury.	Tuesday, June 30, 1992	Tuesday, June 30, 1992.
(b) readily-collectible check	Friday, June 26, 1992	Friday, June 26, 1992.

[FR Doc. 92–14670 Filed 6–18–92; 10:58 am]
BILLING CODE 4810–40–M

[Department Circular—Public Debt Series—No. 21–92]

Treasury Notes of June 30, 1997, Series N–1997 (CUSIP No. 912827 F8 0)

Washington, June 17, 1992.

1. Invitation for Tenders

1.1 The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase or sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For non-competitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outlined in Section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting noncompetitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autocharge agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of

Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted.Settlement on Notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amounts of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4. Attachment A and the offering announcement are incorporated as a part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

Attachment A—Treasury's Single Bidder Guidelines for Noncompetitive Bidding in All Treasury Security Auctions

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—A thrift institution, such as a savings and loan association, credit union, savings bank, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is not recognized as a separate bidder.)

(6) *Partnerships*—Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Auction of 2-Year and 5-Year Notes Totaling $25,500 Million

The Treasury will auction $15,000 million of 2-year notes and $10,500 million of 5-year notes to refund $19,319 million of securities maturing June 30, 1992, and to raise about $6,175 million new cash. The $19,319 million of maturing securities are those held by the

public, including $977 million currently held by Federal Reserve banks as agents for foreign and international monetary authorities.

The $25,500 million is being offered to the public, and any amounts tendered by Federal Reserve banks as agents for foreign and international monetary authorities will be added to that amount. Tenders for such accounts will be accepted at the average prices of accepted competitive tenders.

In addition to the public holdings, Federal Reserve Banks, for their own accounts, hold $1,854 million of the maturing securities that may be refunded by issuing additional amounts of the new securities at the average prices of accepted competitive tenders.

Details about each of the new securities are given in the attached highlights of the offerings and in the official offering circulars.

Attachment—Highlights of Treasury Offerings to the Public of 2-Year and 5-Year Notes To Be Issued June 30, 1992

Amount Offered to the Public	$15,000 million	$10,500 million.
Description of Security		
Term and type of security	2-year notes	5-year notes
Series and CUSIP designation	Series AB–1994 (CUSIP No. 912827 F7 2)	Series N–1997 (CUSIP No. 912827 F8 0)
Maturity date	June 30, 1994	June 30, 1997.
Interest rate	To be determined based on the average of accepted bids.	To be determined based on the average of accepted bids.
Investment yield	To be determined at auction	To be determined at auction.
Premium or discount	To be determined after auction	To be determined after auction.
Interest payment dates	December 31 and June 30	December 31 and June 30.
Minimum denomination available	$5,000	$1,000.
Terms of Sale:		
Method of sale	Yield auction	Yield auction.
Competitive tenders	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.	Must be expressed as an annual yield with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full at the average price up to $5,000,000.	Accepted in full at the average price up to $5,000,000.
Accrued interest payable by investor	None	None.
Key Dates:		
Receipt of tenders	Tuesday, June 23, 1992	Wednesday, June 24, 1992.
(a) Noncompetitive	Prior to 12 noon, EDST	Prior to 12 noon, EDST.
(b) Competitive	Prior to 1 p.m., EDST	Prior to 1 p.m., EDST.
Settlement (final payment due from institutions):		
(a) Funds immediately available to the Treasury.	Tuesday, June 30, 1992	Tuesday, June 30, 1992.
(b) Readily-collectible check	Friday, June 26, 1992	Friday, June 26, 1992.

[FR Doc. 92–14671 Filed 6–18–92; 10:58 am]
BILLING CODE 4810–40–M

Customs Service

Country of Origin Marking Forums

AGENCY: Customs Service, Treasury.

ACTION: Extension of time for comments.

SUMMARY: This notice extends the period of time within which interested members of the public may submit comments that may be addressed at the trade forums that Customs will hold to explore ways to simplify marking requirements. A notice inviting the public to submit comments and to suggest topics regarding country of origin marking requirements was published in the **Federal Register** (57 FR 15355) on April 27, 1992, and comments were to have been received on or before June 11, 1992. A request has been received to extend the period of time for comments. In view of the complexity and variety of the issues involved, the request is being granted.

DATES: Comments will now be accepted if received on or before July 15, 1992.

ADDRESSES: Comments should be submitted to and may be inspected at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service, 1301 Constitution Avenue, NW, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Lorrie Rodbart, Value and Marking Branch (202 566–2938).

Dated: June 7, 1992.

Harvey B. Fox,

Director, Office of Regulations and Rulings.

[FR Doc. 92–14714 Filed 6–22–92; 8:45 am]
BILLING CODE 4820–02–M#

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; Amendment of System of Records

AGENCY: Department of Veterans Affairs.

ACTION: Notice; publication of notices of altered systems of records and proposed new routine uses.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is considering amending the systems of records entitled "Patient Fee Basis Medical and Pharmacy Records-VA" (23VA136) which is set forth on page 888 of the **Federal Register** publication, "Privacy Act Issuances, 1989 Compilation, Volume II" and amended at 55 FR 42534, October 19, 1990, and "Patient Medical Records-VA" (24VA136) which is set forth on page 889 and amended at 55 FR 5112, February 13, 1990, 55 FR 37604, September 12, 1990, 55 FR 42534, October 19, 1990, and 56 FR 1054, January 10, 1991. Additional routine uses are also proposed for the Patient Fee Basis Medical and Pharmacy Records-VA.

DATES: The notices with the administrative and editorial changes are effective on June 23, 1992. Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed routine uses. All relevant material received before July 23, 1992, will be considered. All written comments received will be available for public inspection only in Room 132 of the above address only between the

hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until August 2, 1992. If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by VA, the routine uses in the system are effective July 23, 1992.

ADDRESSES: Written comments concerning the proposed routine uses may be mailed to the Secretary, Department of Veterans Affairs (271A), 810 Vermont Avenue, NW., Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Harold Ramsey, Program Specialist, Medical Administration Service (161B4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 535–7657.

SUPPLEMENTARY INFORMATION: The system notices are being amended to provide for remote on-line read only access to these Veterans Health Administration files by selected staff at Veterans Benefits Administration Regional Offices. The AMIE (Automated Medical Information Exchange) system was designed to enhance the exchange and transfer of information between VA Medical Centers and Regional Offices that is needed in processing claims for benefits. The system enables Regional Offices staff to electronically review veteran information that is stored at the medical centers in the DHCP (Decentralized Hospital Computer Program) and to request any additional information that is needed in determining eligibility for benefits and adjudicating benefit claims. The system improves the timeliness and quality of information processing.

The IHS (Integrated Hospital System) at selected medical facilities and DHCP at other facilities are automated integrated information systems that have been installed at VA medical centers which provide comprehensive support for medical center specific clinical and administrative needs, as well as for the reporting of VA-wide management information. In addition to other applications, the systems provide data processing support to clinical and administrative functions involved with patient care. Access to the file information is controlled by a series of individually unique passwords/codes which are issued to authorized employees that are entered as a part of each data message. Employees who are authorized access to the system are limited to only that information in the file which is needed in the performance of their official duties.

The system notice for Patient Fee Basis Medical and Pharmacy Records-VA (23VA136) also is being amended to include record information that is stored in the IHS and DHCP systems and to provide for remote on-line access to these records. The system also is being rewritten to include additional VA fee-for-service programs covered by the system and to better identify to the public the types of individuals covered by the system of records, the types of records that are being maintained by VA, and the purposes for which the information is being used.

Provisions of the law, Title 38, United States Code, call for all veterans who seek care at VA expense to obtain such care in VA facilities. However, when VA services are unavailable or cannot be economically provided due to geographical inaccessibility and all eligibility requirements are met, patients may be authorized to obtain medical services from non-VA health care institutions and providers. Such services may include outpatient dental treatment, medical care provided on an inpatient and outpatient basis and care provided in a nursing home. In addition, when all eligibility requirements are met, payment may be made for treatment which was not authorized in advance when the care or services were rendered in a medical emergency.

The purpose of the system of records is to provide a repository for information related to the veteran's entitlement for non-VA care or services, the health care providers or institutions that are authorized to provide the medical care or services or has provided such care or services, the medical conditions for which treatment is authorized or for which medical treatment or services were provided, and information related to the processing of bills or invoices for such treatment or services. The records include identifying and address information related to the patient and the non-VA health care institutions and providers who supplied the treatment or services.

In addition to the change to include the record information that is stored in the IHS and DHCP systems, the system location, categories of individuals covered by the system, categories of records in the system, authority for maintenance of the system, storage, retrievability, safeguards, retention and disposal, notification procedures, record access procedures, and record source categories have generally been updated and rewritten to be more specific. Three routine uses are proposed for addition to the system.

The system location is being amended to describe the type of records that are maintained at various locations. The categories of records section is being redescribed to better identify to the public the types of records that are maintained. A new section has been added to describe the purposes for which the records are used. The storage section has been rewritten to include information that is stored in the DHCP and IHS systems.

In addition to providing access to DHCP files by Regional Office staff through AMIE, the Safeguards section has been rewritten to better describe how the information is protected from unauthorized access and to provide for access to information stored in DHCP and IHS by Office of Inspector General (OIG) staff conducting audits or investigations at health care facilities or remote on-line access at OIG office locations that are remote from the health care facilities. The retention and disposal section has been amended to reflect that the records retention period has been extended from 15 to 75 years. The record source categories section has been rewritten to better describe the sources of the record information.

The routine uses proposed for the system provide for the disclosure of patient information to health care providers that are furnishing medical services to the individual who is authorized fee-basis treatment, reporting the earnings of the health care providers to the Internal Revenue Service, and providing the Department of Health and Human Services with information concerning patients who are authorized fee-basis medical services at VA expense in order to prevent duplicate payments by Medicare intermediaries.

The system notice for Patient Medical Records—VA (24VA136) also is being amended to provided for the maintenance in the veteran's record of the name, social security number, date of birth and annual income of the spouse and dependents of certain veterans. This information may be used to verify family income to determine the veteran's eligibility for medical care benefits.

A "Report of Altered System" and an advance copy of the revised system notice have been sent to the Chairmen of the House Committee on Government Operations and the Senate Committee on Governmental Affairs, and the Director, Office of Management and Budget (OMB), as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by the OMB (50 FR 52730), December 24, 1985. The OMB requires that an altered system report be distributed no later than 60 days prior to the implementation of an altered system. The OMB has been requested to waive this requirement.

Approved: June 4, 1992
Edward J. Derwinski,
Secretary of Veterans Affairs.

Notice of Amendments to System of Records

1. The system identified as 23VA136, "Patient Fee Basis Medical and Pharmacy Records—VA" appearing on page 888 of the **Federal Register** publication, "Privacy Act Issuances, 1989 Compilation, Volume II" and amended at 55 FR 42534, October 19, 1990, is amended by adding three routine uses and revising the entries for System Location, Categories of Individuals Covered by the System, Categories of Records in the System, Authority for Maintenance of the System, Storage, Retrievability, Safeguards, Retention and Disposal, System Manager and Address, Notification Procedures, Record Access Procedures, and Record Source Categories to read as follows:

23VA136

SYSTEM NAME:

Patient Fee Basis Medical and Pharmacy Records—VA.

SYSTEM LOCATION:

Paper records are maintained at VA health care facilities and Federal record centers. Information is stored also in automated storage media records that are maintained at: The health care facilities (in most cases, back-up computer tape information is stored also at off-site locations); VA Central Office, Washington, D.C.; the VA Boston Development Center, Braintree, MA; the VA Information Systems Centers; the Regional Directors and Division Offices; and the VA Data Processing Center located in Austin, Texas. Address locations for VA facilities are listed in VA Appendix 1 at the end of this document.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Veterans who have applied for health care services under title 38, United States Code, Chapter 17.
2. Beneficiaries of other Federal agencies.
3. Pensioned members of allied forces who are provided health care services under Title 38, United States Code, Chaper 1.
4. Non-VA health care providers who provide fee basis services to veterans.

CATEGORIES OF RECORDS IN THE SYSTEM

The records include information concerning patients who are authorized to obtain medical care and services from non-VA health care institutions and providers and the institutions and/or providers (e.g., individuals, pharmacies, clinics or group practices, hospitals, nursing homes, physicians, psychologists, podiatrists, optometrists, nurses, and others) who furnish the authorized medical treatment, services, medications, or supplies. The patient information may include name, address social security and VA claim numbers, medical conditions authorized for treatment, eligibility information related to such treatment, the date authorization for the services was issued and the period of validity, the amounts paid for travel benefits, the amounts reimbursed for services paid for by the patient, and information that pertains to the medical care. Information that is maintained concerning the health care institutions and providers may include name, address, social security or employer's taxpayer identification numbers, services rendered, fees charged and amounts paid for services rendered, and earnings for performing such services.

PURPOSE(S):

The records or information may be used for such purposes as reporting health care provider earnings to the Internal Revenue Service; producing various management and patient follow-up reports; responding to patient and other inquiries; for statistical analysis; for resource allocation and planning; to provide clinical and administrative support to patient medical care and payments for medical care; determining entitlement and eligibility for VA benefits; processing and adjudicating benefit claims by VBA (Veterans Benefits Administration) RO (Regional Office) staff; for audits, reviews and investigations conducted by staff of the health care facility, the Regional Directors and Division Offices, VA Central Office, and the VA Office of Inspector General (OIG); law enforcement investigations; and, quality assurance audits, reviews and investigations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, chapter 1, section 111 and chapter 17, sections 1703, 1710, 1712, 1720 and 1728 (formerly sections 603, 610, 612, 620 and 628, respectively).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 38 U.S.C. 7332 (formerly section 4132), i.e., medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus, that information cannot be disclosed under a Routine Use unless there is also specific statutory authority permitting disclosure.

* * * * *

12. Relevant identifying and medical treatment information (excluding medical treatment information related to drug or alcohol abuse, infection with the human immunodeficiency virus or sickle cell anemia) may be disclosed to a Federal agency or non-VA health care provider or institution when VA refers a patient for treatment or medical services or authorizes a patient to obtain non-VA medical services and the information is needed by the Federal agency or non-VA institution or provider to perform the services or for VA to obtain sufficient information in order to make payment for the services, to evaluate the services rendered, or to determine the need for additional services.

13. Information maintained in this system concerning non-VA health care institutions and providers, including name, address, social security or employer's taxpayer identification numbers, may be disclosed to the Treasury Department, Internal Revenue Service, to report calendar year earnings of $600 or more for income tax reporting purposes.

14. In order to prevent or identify duplicate payments by Medicare intermediaries, relevant information (excluding medical treatment information related to drug or alcohol abuse, infection with the human immunodeficiency virus or sickle cell anemia) may be disclosed to the Department of Health and Human Services (HHS) for the purpose of identifying individuals who are authorized by VA to obtain non-VA health care services at VA expense and those for whom payments have been made. The information to be disclosed to HHS includes identifying information (patient and provider names, addresses, social security and taxpayer identification numbers, and date of birth of patient), treatment information (dates and diagnostic, surgical, and services provided codes) and payment information (payee, amounts and dates).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM: STORAGE:

Records are maintained on paper documents at the health care facilities. Paper payment vouchers are maintained at the health care facility or VA Data Processing Center at Austin, Texas.

Information on automated storage media (e.g., microfilm, microfiche, magnetic tape and magnetic disks and laser optical media) is stored at the health care facilities (includes record information stored in the Integrated Hospital System (IHS) at selected medical facilities and at other facilities in the Decentralized Hospital Computer Program (DHCP) system, and, in most cases, copies of back-up computer files maintained at off-site locations), VA Central Office, the VA Boston Development Center, the Regional Directors and Division Offices, the Information Systems Centers and the Austin VA Data Processing Center. Reports generated from these records are maintained on paper and microfiche at the health care facilities, VA Central Office, the Regional Directors and Division Offices, and the Data Processing Center.

RETRIEVABILITY:

Information is retrieved by the patient's name and/or social security number and/or the name or social security or taxpayer identification numbers of the non-VA health care institution or provider.

SAFEGUARDS:

1. Access to working spaces and record storage areas in VA health care facilities is restricted to VA employees on a "need-to-know" basis. Generally, file areas are locked after normal duty hours and the health care facilities are protected from outside access by the Federal Protective Service or other security personnel. Access to the records is restricted to VA employees who have a need for the information in the performance of their official duties. Employee records or records of public figures or otherwise sensitive records are generally stored in separate locked files. Strict control measures are enforced to ensure that access to and disclosures from these records are limited to a "need-to-know" basis.

2. Access to the DHCP and IHS computer rooms at health care facilities is generally limited by appropriate locking devices and restricted to authorized VA employees and vendor personnel. ADP peripheral devices are generally placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Information in the DHCP and IHS systems may be accessed by authorized VA employees. Access to file information is controlled at two levels: the system recognizes authorized employees by a series of individually unique passwords/codes as a part of each data message, and the employees are limited to only that information in the file which is needed in the performance of their official duties. Information that is downloaded from the Austin Data Processing Center and DHCP and IHS files and maintained on personal computers is afforded similar storage and access protections as the data that is maintained in the original files. Remote access to file information by staff of the Information Systems Centers, the Veterans Benefits Administration Regional Offices, and access by OIG staff conducting an audit or investigation at the health care facility or an OIG office location remote from the health care facility is controlled in the same manner.

3. Access to the Austin VA Data Processing Center is generally restricted to Center employees, custodial personnel, Federal Protective Service and other security personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other persons gaining access to computer rooms are escorted. Information stored in the computer may be accessed by authorized VA employees at remote locations including VA health care facilities, Information Systems Centers, VA Central Office, Regional Directors and Division Offices, and OIG headquarters and field staff. Access is controlled by individually unique passwords/codes which must be changed periodically by the employee.

4. Access to records maintained at VA Central Office, the VA Boston Development Center, the Information Systems Centers and the Regional Directors and Division Offices is restricted to VA employees who have a need for the information in the performance of their official duties. Access to information stored on automated storage media is controlled by individually unique passwords/codes. Information stored on computers at the Information Systems Centers may be accessed by authorized VA employees at remote locations including VA health care facilities and Regional Directors and Division Offices. Access is controlled by individually unique passwords/codes. Records are maintained in manned rooms during nonworking hours. The facilities are protected from outside access during working hours by the Federal Protective Service or other security personnel.

5. Information downloaded from DHCP and IHS and VA Data Processing Center files and maintained by the OIG headquarters and field offices on automated storage media is secured in storage areas or facilities to which only OIG staff have access. Paper documents are similarly secured. Access to paper documents and information on automated storage media is limited to OIG employees who have a need for the information in the performance of their official duties. Access to information stored on automated storage media is controlled by individually unique passwords/codes.

RETENTION AND DISPOSAL:

Paper documents at the health care facility related to authorizing the fee basis care and the services authorized, billed and paid for are maintained in the Patient Medical Records-VA (24VA136). These records are retained at health care facilities for a minimum of three (3) years after the last episode of care. After the third year of inactivity the paper record is screened and vital documents are removed and retained for an additional seventy-two (72) years at the facility as a perpetual medical record. The remaining portion of the record is transferred to the nearest Federal Record Center for seventy-two (72) more years of storage. Automated storage media and other paper documents that are included in this system of records and not maintained in the Patient Medical Records-VA (24VA136) are retained and disposed of in accordance with disposition authorization approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Medical Administration Service (161B), VA Central Office, Washington, DC 20420.

NOTIFICATION PROCEDURES:

An individual who wishes to determine whether a record is being maintained in this system under the individual's name or other personal identifier, or wants to determine the contents of such record, should submit a written request or apply in person to the last VA health care facility where care was authorized or rendered. Addresses of VA health care facilities may be found in VA Appendix 1 at end of this document. All inquiries must reasonably identify the portion of the fee basis record involved and the place and approximate date that medical care was provided. Inquiries should include the patient's full name, social security number and return address.

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of VA fee basis records may write, call or visit the last VA facility where medical care was authorized or provided.

* * * * *

RECORD SOURCE CATEGORIES:

The patient, family members or accredited representative, and friends, employers or other third parties when otherwise unobtainable from the patient or family; military service departments; private medical facilities and health care professionals; Patient Medical Records-VA (24VA136); other Federal agencies; VA regional offices; VA automated record systems including Individuals Submitting Invoices/Vouchers for Payment-VA (13VA047), Veterans and Beneficiaries Identification and Records Location Subsystem-VA (38VA23) and the Compensation, Pension, Education and Rehabilitation Records–VA (58VA21/22); and, various automated systems providing clinical and managerial support at VA health care facilities.

2. The system identified as 24VA136, "Patient Medical Records-VA" appearing on page 889 of the **Federal Register** publication, "Privacy Act Issuances, 1989 Compilation, Volume II" and amended at 55 FR 5112, February 13, 1990, 55 FR 37604, September 12, 1990, 55 FR 42534, October 19, 1990, and 56 FR 1054, January 10, 1991, is amended by revising the entries for Categories of Records in the System, Purpose(s), System Manager and Address and Safeguards to read as follows:

24VA136

SYSTEM NAME:

Patient Medical Records-VA.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

The patient medical record is a consolidated health record (CHR) which may include an administrative record folder (e.g., medical benefit application and eligibility information including information obtained from Veterans Benefits Administration automated records such as the Veterans and Beneficiaries Identification and Records Location Subsystem–VA (38VA23) and the Compensation, Pension, Education and Rehabilitation Records–VA (58VA21/22), correspondence about the individual), medical record folder (a cumulative account of sociological, diagnostic, counseling, rehabilitation, drug and alcohol, dietetic, medical, surgical, dental, psychological, and/or psychiatric information compiled by VA professional staff and non-VA health care providers), and subsidiary record information (e.g., tumor registry, dental, prosthetic, pharmacy, nuclear medicine, dietetic, social work, clinical laboratory, radiology, patient scheduling information, information related to funds that are deposited at the health care facility for safekeeping). The consolidated health record may include identifying information (e.g., name, address, date of birth, VA claim number, social security number), military service information (e.g., dates, branch and character of service, service number, medical information), family information (e.g., next of kind and person to notify in emergency address information, name, social security number and date of birth for veteran's spouse and dependents, family medical history information), employment information (e.g., occupation, employer name and address), financial information (e.g., family income, assets, expenses, debts, amount and source of income for veteran, spouse and dependents), third-party health plan contract information (e.g., health insurance carrier name and address, policy number, amounts billed and paid), and information pertaining to the individual's medical, surgical, psychiatric, dental, and/or psychological examination, evaluation, and/or treatment (e.g., information related to the chief complaint and history of present illness and information related to physical, diagnostic, therapeutic, and special examinations, clinical laboratory, pathology and x-ray findings, operations, medical history, medications prescribed and dispensed, treatment plan and progress, consultations, photographs taken for identification and medical treatment, education and research purposes, facility locations where treatment is provided, observations and clinical impressions of health care providers (and identity of providers) to include, as appropriate, the present state of the patient's health, an assessment of the patient's emotional, behavioral, and social status, as well as an assessment of the patient's rehabilitation potential and nursing care needs). Patient medical record abstract information is maintained in auxiliary paper and automated records (e.g., Patient Treatment File (PTF) (data from inpatient episodes of care), Agent Orange Registry (veterans examined for Agent Orange exposure), Former Prisoner of War Tracking System (former POW's who have received a medical evaluation), outpatient visit file (OPC) (data relating to outpatient visits of patients and collaterals), Annual Patient Census File (data on a cross-section of patients in VA health care facilities, cardiac pacemaker registry (patients implanted with a cardiac pacemaker), Hospital Based Home Care Program (patients provided medical services at home), Spinal Cord Injury (SCI) registry (SCI patients who have been examined or treated), AIDS (Acquired Immunodeficiency Syndrome) registry (patients examined or treated for AIDS or AIDS Related Complex)).

A perpetual medical record is established and maintained at the health care facility when a consolidated health record is transferred to a Federal record center for storage. The perpetual medical record consists of the application(s) for medical benefits, hospital summary(ies), operation report(s), and tissue examination(s) for all episodes of care, and if applicable, autopsy report and certain Freedom of Information and Privacy Acts related records. Records related to ionizing radiation and agent orange claimants include ionizing radiation registry and agent orange registry code sheets, progress notes, laboratory reports, and follow-up letters.

PURPOSE(S):

The paper and automated records may be used for such purposes as: producing various management and patient follow-up reports; responding to patient and other inquiries; for epidemiological research and other health care related studies; statistical analysis, resource allocation and planning; providing clinical and administrative support to patient medical care; determining entitlement and eligibility for VA benefits; processing and adjudicating benefit claims by VBA (Veterans Benefits Administration) RO (Regional Office) staff; for audits, reviews and investigations conducted by staff of the health care facility, the Regional Directors and Division Offices, VA Central Office, and the VA OIG (Office of Inspector General); law enforcement investigations; quality assurance audits, reviews and investigations; personnel management and evaluation; employee ratings and performance evaluations, and employee disciplinary or other adverse action, including discharge; advising health care professional licensing or monitoring bodies or similar entities of activities of VA and former VA health care personnel; accreditation of a facility by an entity such as the Joint Commission on Accreditation of Healthcare Organizations; and, notifying medical schools of medical students' performance.

* * * * *

SAFEGUARDS:

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2. Access to the DHCP and IHS computer rooms within the health care facilities is generally limited by appropriate locking devices and restricted to authorized VA employees

and vendor personnel. ADP peripheral devices are generally placed in secure areas (areas that are locked or have limited access) or are otherwise protected. Information in the DHCP and IHS systems may be accessed by authorized VA employees. Access to file information is controlled at two levels: the system recognizes authorized employees by a series of individually unique passwords/codes as a part of each data message, and the employees are limited to only that information in the file which is needed in the performance of their official duties. Information that is downloaded from PTF, OPC, DHCP and IHS files and maintained on personal computers is afforded similar storage and access protections as the data that is maintained in the original files. Remote access by VBA RO staff for benefit determination and processing purposes and access by OIG staff conducting an audit or investigation at the health care facility or an OIG office location remote from the health care facility is controlled in the same manner.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Director, Medical Administration Service (161B), VA Central Office, Washington, DC 20420.

* * * * *

[FR Doc. 92-14703 Filed 6-22-92; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 121
Tuesday, June 23, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, June 24, 1992.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Section 37 Final Rule.

The staff will brief the Commission on a final rule interpreting Section 37 of the Consumer Product Safety Act.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 505–0800.

Dated: June 18, 1992

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–14877 Filed 6–19–92; 3:01 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, June 25, 1992, 10:00 a.m.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED: Compliance Status Report.

The staff will brief the Commission on the status of various compliance matters.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: June 18, 1992.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 92–14878 Filed 6–19–92; 3:04 pm]

BILLING CODE 6355–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 11:30 a.m. on Tuesday, June 23, 1992, to consider following matters:

Summary Agenda

No cases scheduled.

Discussion Agenda

Memorandum and resolution re: Proposed regulation regarding Prompt Corrective Action (Section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991).

Memorandum and resolution re: Proposed regulations regarding real estate lending standards.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, NW., Washington, D.C.

Requests for further information concerning the meeting may be directed to Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 898–6757.Q04

Dated: June 18, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92–14797 Filed 6–18–92; 4:56 pm]

BILLING CODE 6714–01–M

COMMITTEE ON EMPLOYEE BENEFITS OF THE FEDERAL RESERVE SYSTEM:

TIME AND DATE: 2:30 p.m., Monday, June 29, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to: (a) The general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans; (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; and (e) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal, actuarial, accounting, administrative, and other services as the committee deems necessary to carry out the provisions of the Plans. Specific items include: (A) Reserve Bank early retirement proposal; (B) Salary administration for the Office of Employee Benefits; and (C) Update of the Office of Employee Benefits Mission Statement.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: June 19, 1992.

William W. Wiles,

Secretary of the Board.

[FR Doc. 92–14902 Filed 6–19–92; 3:45 pm]

BILLING CODE 6210–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM:

TIME AND DATE: 12:00 noon, Monday, June 29, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Benefits proposals regarding the Office of Inspector General.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: June 19, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–14903 Filed 6–19–92; 3:42 pm]

BILLING CODE 6210–01–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–92–17]

TIME AND DATE: June 29, 1992 at 2:30 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda
2. Minutes
3. Ratification List
4. Petitions and complaints: None
5. Inv. 731–TA–562 (Preliminary) (Crushed limestone from Mexico)—briefing and vote.
6. Inv. 731–TA–563–564 (Preliminary) (Certain stainless steel butt-weld pipe fittings from Korea and Taiwan)—briefing and vote.
7. Any items left over from previous agenda: None

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 205–2000.

Dated: June 18, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–14870 Filed 6–19–92; 2:36 pm]

BILLING CODE 7020–02–M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE–92–18]

TIME AND DATE: June 30, 1992 at 2:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Inv. 303–TA–23 (Preliminary) and 731–TA–565–570 (Preliminary) (Ferrosilicon from Argentina, Kazakhstan, The People's Republic of China, Russia, Ukraine and Venezuela)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 205–2000).

Dated: June 18, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–14871 Filed 6–19–92; 2:44 pm]

BILLING CODE 7020–02–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of June 22, 29, July 6, and 13, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of June 22

Wednesday, June 24

9:00 a.m.
Briefing by DOE on Status of Civilian High Level Waste Program (Public Meeting)

2:30 p.m.
Briefing on Proposed Part 100 Rule Change (Public Meeting) (Contact: Andrew Murphy, 301–492–3860)

4:00 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Thursday, June 25

9:00 a.m.
Briefing on Industry Progress on First-of-a-Kind Engineering (FOAKE) (Public Meeting)

1:30 p.m.
Discussion of Nuclear Issues in the Former Soviet Union (Public Meeting)

Week of June 29—Tentative

Thursday, July 2

9:30 a.m.
Periodic Briefing on Operating Reactors and Fuel Facilities (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of July 6—Tentative

Wednesday, July 8

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of July 13—Tentative

Tuesday, July 14

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Briefing on Requests to DOE for Technology Transfers Under 10 CFR Part 810 (Closed—Ex. 1 & 4) scheduled for June 19, *canceled.*

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To Verify the Status of Meeting Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: June 19, 1992.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 92–14860 Filed 6–19–92; 2:16 pm]

BILLING CODE 7590–01–M

Corrections

Federal Register
Vol. 57, No. 121
Tuesday, June 23, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 92-33]

Marine Terminal Facilities Agreements—Exemption

Correction

In proposed rule document 92-13612 beginning on page 24569 in the issue of Wednesday, June 10, 1992, make the following corrections:

PART 571 [CORRECTED]

1. On page 24571, in the second column, in the part heading, "**PART 571**", should read "**PART 572**".

§ 572.11 [Corrected]

2. On the same page, in the same column, in the section heading, "§ 572.11" should read "§ 572.311".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 163

[Docket No. 86P-0297]

Cacao Products; Amendment of the Standards of Identity

Correction

In proposed rule document 92-13032 beginning on page 23989 in the issue of Friday, June 5, 1992, make the following corrections:

1. On page 23994, in the first column, in the first full paragraph, in the fifth line, "§ 163.159" should read "§ 163.150".

§ 163.110 [Corrected]

2. On page 24000, in the third column, in § 163.110(b)(2), in the sixth line, "beans" was misspelled.

3. On page 24001:

a. In the first column, in § 163.110(c)(1), in the top line, after the second time "Processed" appears insert "with".

b. In the same column, in § 163.110(c)(2), in the second line, "prepared" was misspelled.

§ 163.111 [Corrected]

c. In the second column, in § 163.111(c)(3), in the first line, "spices" should not have been capitalized and in the sixth line "Spice" should have been capitalized.

§ 163.112 [Corrected]

d. In the same column, in § 163.112(a)(1), in the fourth line, "cocoa" should read "cacao".

e. In the third column, in § 163.112(a)(4), in the first line, "Breakfast" was misspelled.

§ 116.113 [Corrected]

4. On page 24002:

a. In the first column, in § 163.113(b), in the second line, "food in" should read "food is".

§ 163.117 [Corrected]

b. In the same column, in § 163.117(a), in the sixth line, "breakfast" was misspelled.

§ 163.123 [Corrected]

c. In the 2d column, in § 163.123(a)(2), in the 13th line, "finished" was misspelled.

d. In the third column, in § 163.123(c)(3), in the fourth line, "breakfast" was misspelled.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB

Correction

In rule document 92-9174 beginning on page 14649 in the issue of Wednesday, April 22, 1992, make the following correction:

§ 17.12 [Corrected]

On page 14653 the table was printed incorrectly and should appear as set forth below:

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Crassulaceae—Stonecrop Family						
Sedum integrifolium ssp. *leedyi*	Leedy's roseroot	U.S.A. (MN, NY)	T	460	N/A	N/A

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

Labor-Management Relations

Correction

Wednesday, June 17, 1992, in the third column, under **DATES**, in the last line, "July 17, 1992" should read "August 17, 1992".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 87-10; Notice 5]

RIN 2127-AE14

Federal Motor Vehicle Safety Standards; Power-Operated Window, Partition, and Roof Panel Systems

Correction

In rule document 92-13160 beginning on page 23958 in the issue of Friday, June 5, 1992, make the following correction:

§ 571.118 [Corrected]

1. On page 23963, in the third column, in § 571.118, in S5(a)(1), in the third line, "to" should read "or".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 145

[T.D. 92-56]

Customs Form for Collection Receipt of Informal Entry

Correction

In rule document 92-13847 beginning on page 24942 in the issue of Friday, June 12, 1992, make the following corrections:

§ 141.68 [Corrected]

1. On page 24944, in the first column, in amendatory instruction 2(b) to § 141.68(h), "5119A" should read "5119-A".

§ 145.12 [Corrected]

2. On page 24944, in the second column, in the amendatory instruction 3(a) to § 145.12(b)(1), in the fifth line, the end quotation marks after "words" should be beginning quotation marks.

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8410]

RIN 1545-AM20

Allocation and Apportionment of Interest Expense

Correction

In rule document 92-8495 beginning on page 13019 in the issue of Wednesday, April 15, 1992, make the following corrections:

1. On page 13020:

a. In the 1st column, in the 13th line, after "excess" delete "of".

b. In the second column, under *B. Significant Comments and Revisions*, in the sixth line, after "(e)(3)(v)(B),", insert "a".

c. In the 3d column, in the 23d line, "indebtedness" was misspelled.

2. On page 13021:

a. In the second column, in the third full paragraph, in the third line, "write-off" was misspelled.

b. In the third column, in the third full paragraph, in the first line, after "Section" delete "§ ".

3. On page 13022, in the second column, in the third line, after "U.S.C"insert ".".

PART 1 [Corrected]

4. On page 13022, in the second column, "**PART 1—INCOME TAX: TAXABLE**" should read "**PART 1—INCOME TAX; TAXABLE**".

§ 1.861-10 [Corrected]

5. On page 13023:

a. In the second column, in § 1.861-10(e)(3)(ii), in the first line, after "indebtedness" insert end quotation marks and in the seventh line, after "defined" insert "in".

b. In the same column, in § 1.861-10(e)(3)(iii)(A), in the seventh line, "in the obligations" should read "in and obligations".

6. On page 13024, in the second column, in § 1.861-10(e)(6), in the tenth line, "value of" should read "value or".

7. On page 13026, in the second column, in § 1.861-10(e)(11)(ii)(*2*), in the first line, "(*2*)" should read "(*3*)", the third line should read "$50,000 - $30,000 = $20,000.", in the sixth line, "$24,000 fro" should read "$24,000 for" and, in the last line, in the third column, insert "$" before "20,000".

8. On page 13027, in the 1st column, in in § 1.861-10(e)(11)(iv)(b), in the 1st line, "$969" should read "$960" and in the 17th and 22d lines, after "income" delete "—".

BILLING CODE 1505-01-D

federal register

Tuesday
June 23, 1992

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Addition of Argali to List of Endangered and Threatened Wildlife; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AB42

Endangered and Threatened Wildlife and Plants; Addition of Argali to List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Effective January 1, 1993, the Service adds the argali (*Ovis ammon*), a wild sheep of Asia, to the List of Endangered and Threatened Wildlife. The species is classified as endangered throughout its range, except in Kyrgyzstan, Mongolia, and Tajikistan, where it is designated as threatened. The argali has declined seriously, though substantial and relatively secure herds are thought to exist in parts of the three countries specified. A special rule, included herein, provides for the limited importation of trophies taken legally in those three countries, once the Service has received from the governments thereof properly documented certification of adequate population status, management, regulatory enforcement, and utilization of funds derived from sport hunting for argali conservation. Extension of the special rule to argali populations in certain other countries is a future possibility. This final rule implements the protection of the Endangered Species Act of 1973, as amended, for the argali.

EFFECTIVE DATE: January 1, 1993.

ADDRESSES: The complete file for this final rule is available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, in room 750, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority; Mail Stop: Arlington Square, room 725; U.S. Fish and Wildlife Service; Washington, DC 20240 (phone 703–358–1708, FAX 703–358–2276).

SUPPLEMENTARY INFORMATION:

Background

The argali (*Ovis ammon*) is an Asian relative of the North American bighorn sheep (*Ovis canadensis*), but averages somewhat larger in size, and, indeed, is the largest species of wild sheep. In adult males, length is about 70–80 inches (180–200 centimeters), height is 43–49 inches (110–125 centimeters), and weight is 210–310 pounds (95–140 kilograms). The massive spiral horns are up to 75 inches (190 centimeters) long and 20 inches (50 centimeters) in circumference. The general coloration is light brown, with a large white rump patch and white legs (Geist 1984).

The historic range of the argali include Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, southern Siberia, Mongolia, north-central and western China including Tibet, Nepal, and the Himalayan portions of Afghanistan, Pakistan, and India. The species generally forages in broad valleys, high pastures, or cold deserts, and may seek refuge in adjacent mountains (Valdez 1982).

There is considerable disagreement regarding the subspecific division of *O. ammon*. Nadler *et al.* (1973) listed 17 subspecies that had been named by various authorities. In a recent revision, Geist (1991) recognized only seven, including *O. a. hodgsoni*, which he considered to occupy the Himalayas, the Tibetan Plateau, and adjacent areas from northern India and Nepal to Gansu Province of north-central China. Much controversy centers on the distribution of *O. a. hodgsoni*. Some authorities, including Pfeffer (1967) and Valdez (1982), give basically, though not always precisely, the same range accepted by Geist. Others, such as Ellerman and Morrison-Scott (1966) and Sopin (1982) restrict its range to the Himalayan region and Tibet. They recognize another subspecies, *O. a. dalailamae*, in the Kun Lun Shan Mountains and other parts of the northern Tibetan Plateau. Then, according to these writers, farther north in parts of Gansu Province and areas north and east, the subspecies present would be *O. a. jubata* and/or *O. a. darwini*. Still other authorities, including Clark (1964) consider the range of *hodgsoni* to extend all the way from the Himalayas to the Gobi, but also recognize the presence of *dalailamae* in a limited area to the west.

There also is disagreement with respect to the subspecies *severtzovi*, which formerly occurred in much of Uzbekistan and which now is restricted largely to the Nuratau Mountains in that country (Borodin *et al.* 1984). It is considered an argali (*O. ammon*) by some authorities and a urial (*O. vignei*) by others, though Geist (1991) indicated that further studies are needed to determine its affinities. The proposed rule of October 5, 1990, did not specifically refer to *severtzovi*, but did include its range within the over-all historic range of the species *O. ammon*. As *severtzovi* was covered by the status reports on the argali recently provided to the Service by the Caprinae Specialist Group of the Species Survival Commission of the International Union for Conservation of Nature (IUCN/SSC), and was designated as endangered therein, it will continue to be considered part of the species *O. ammon* for purposes of this rule. Should further investigations support its recognition as part of the species *O. vignei*, or any other species, it will remain listed but will be given appropriately modified scientific and common names.

In the **Federal Register** of June 14, 1976 (41 FR 24064), the U.S. Fish and Wildlife Service (Service) classified *O. a. hodgsoni* as endangered in Tibet (now officially referred to as the Chinese province of Xizang), pursuant to the Endangered Species Act of 1973 (Act). This listing was in response to a petition requesting endangered classification for all taxa that already were on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), but that then were not on the U.S. List of Endangered and Threatened Wildlife and Plants. No analysis of the differing views on the distribution of *hodgsoni* was presented in the listing notice. However, recent editions of the List of Endangered and Threatened Wildlife, which have been modified for purposes of clarity, show the range of the subspecies as "China (Tibet, Himalayas)."

In 1988 a legal action developed relative to the importation of trophies of argali killed in the Chinese province of Gansu (see Marshall 1990). In the course of this action, a dispute arose as to whether the trophies represented protected species. As pointed out in a notice issued by the Service's Division of Law Enforcement in the **Federal Register** of November 24, 1989 (54 FR 48722), it was eventually concluded that the trophies were properly identified as *hodgsoni*. However, at the same time the Service issued another notice (54 FR 48723) stating that it was considering changes to the List of Endangered and Threatened Wildlife, so that the range of *hodgsoni* would be fully and accurately delineated. The Service also stated that it had received information suggesting that additional subspecies of *O. ammon* were of serious conservation concern and might warrant classification as endangered or threatened. The notice initiated a status review that solicited comments and data relative to the taxonomy, distribution, and bioconservation status of all subspecies of *O. ammon*.

The notice yielded 15 comments, some of which are covered in the "Summary of Factors Affecting the Species," as set forth below. There was no consensus on the questions of taxonomy or

distribution of classified populations. Although there also was some disagreement on bioconservation status, most comments, as well as available literature, indicated that the species *O. ammon* has undergone a general decline, that certain, if not all, of its populations are in serious jeopardy, and that it is vulnerable to a number of problems, notably hunting and competition for forage and water with expanding herds of domestic livestock. There long has been recognition that the species has disappeared from or become rare in much of the periphery of its historical range—northeastern China, eastern Mongolia, southern Siberia, central Kazakhstan, Uzbekistan, Afghanistan, Pakistan, India, and Nepal (Borodin *et al.* 1984; Harper 1945; Schaller 1977). However, there had been a general view that the argali remained relatively common and well protected in the heart of its range, particularly the Tibetan Plateau and Gobi Desert (Cai 1985; Mallon 1985). Now there is evidence of a serious deterioration of status even in those regions.

In the **Federal Register** of May 23, 1990 (55 FR 21207), the Service announced completion of its status review and its intentions for a proposed rulemaking. Many questions remained both with respect to taxonomy and bioconservation, but for purposes of the proposed rule the Service decided to address the entire species as a single entity and to propose an over-all classification of threatened. The proposed rule was published in the **Federal Register** of October 5, 1990 (55 FR 40890-40896). The Service emphasized therein that it would be actively seeking additional information during the comment period, that all available data and opinions would be reviewed, and that such evaluation might lead to a final rule substantially different from the proposal. In particular, it was noted that the final rule might designate the entire species *O. ammon*, or any subspecies or population thereof, as endangered. Therefore, all interested parties were requested to consider such an alternative, among others, when examining the proposal and preparing their comments.

The proposed rule provided for a comment period lasting until February 4, 1991. In the **Federal Register** of February 8, 1991 (56 FR 5192), the comment priod was extended to April 20, 1991. In the **Federal Register** of October 25, 1991 (56 FR 55266–55267), the Service announced that, because of difficulty in obtaining information, and authoritative disagreement regarding available data, the deadline for issuing a final rule (normally a year from the proposal) would be extended by 6 months until April 5, 1992, and that the comment period would be reopened until December 24, 1991. The Service then emphasized that no decision had been reached regarding a final rule, but that information then available suggested that it might not be inappropriate to classify the entire species *O. ammon*, as endangered, except possibly in parts of the former Soviet Union and Mongolia, where it might be classified as threatened and covered by a special rule. In the **Federal Register** of January 8, 1992 (57 FR 659), the comment period was reopened until February 24, 1992.

Based on an assessment of the information received during the comment periods, together with other available data, the Service now concludes that the entire species *Ovis ammon* should be added to the List of Endangered and Threatened Wildlife. It will be classified as endangered throughout its range, except in Kyrgyzstan, Mongolia, and Tajikistan, where it will be designated as threatened and covered by a special rule. In order to avoid undue hardship to parties already committed to imminent, legitimate activities that might be precluded by the listing of the argali, and in order to give reasonable time to authorities in the three specified countries to meet the requirements of the special rule (as set forth below), the effective date of the listing will be January 1, 1993. The subspecies *Ovis ammon hodgsoni*, no matter how narrowly or broadly defined, will now be covered entirely by the endangered classification. Thus, questions regarding the taxonomy and legal history of this subspecies, which generated much interest in the course of this rulemaking, are no longer immediately relevant.

Section 4(d) of the Act provides that special rules issued for threatened species be "necessary and advisable to provide for the conservation of such species." The Service recognizes that there is a reasonable argument for the proposition that controlled sport (i.e., noncommercial) hunting may provide economic incentives that contribute to the conservation of certain wildlife populations. These incentives may be direct, by generating funding for essential conservation measures through licensing fees. They may also be indirect, by focusing governmental attention to the need to protect species of economic value. In the case of the argali, the Service has received extensive, though not unanimous, indications that populations in parts of Kyrgyzstan, Mongolia, and Tajikistan are substantial, and that sport hunting programs, with consequent exportation of trophies, may encourage and provide necessary funds for conservation. The Service, however, has not yet obtained satisfactory documentation of such a situation from government authorities in those three countries.

Considering the above, the special rule on the argali will provide for the limited importation into the United States of trophies taken legally in Kyrgyzstan, Mongolia, and Tajikistan once the Service has received from the governments of those countries properly documented and verifiable certification that: (1) Argali populations are sufficiently large to sustain sport hunting; (2) regulating authorities have the capability to obtain sound data on these populations; (3) regulating authorities recognize these populations as a valuable resource and have the legal and practical means to manage them as such; (4) the habitat of these populations is secure; (5) regulating authorities can ensure that the involved trophies have in fact been legally taken from the specified populations; and (6) funds derived from the involved sport hunting are applied substantially to argali conservation. When the indicated conditions are met, the Service will implement the regulation through publication of a notice in the **Federal Register**. Extension of this special rule to argali populations in certain other countries, together with reclassification of such populations to threatened status, is a future possibility.

In connection with this new regulation, the Service notes that the argali (exclusive of the subspecies *O. a. hodgsoni*) is on appendix II of CITES, and thus until now could be imported into the U.S. upon presentation of a proper CITES export permit from the country of origin. Section 9(c)(2) of the Act provides that the otherwise lawful importation of wildlife that is not an endangered species listed pursuant to section 4 of the Act, but that is on appendix II of CITES, shall be presumed to be in compliance with provisions of the Act and implementing regulations. There has been some question as to whether this provision of the Act might automatically require allowing the importation of a species that is both listed as threatened and on appendix II, and preclude the issuance of more restrictive special rules covering importation. However, the Service now has concluded that such special rules may be issued to provide for the conservation of the involved species. It is not clear that the reference of section

9(c)(2) to wildlife that "is not an endangered species listed pursuant to section 4 of the Act but is listed in appendix II of the Convention" was intended to apply to threatened species, which also are listed pursuant to section 4. Legislative history supports placing severe restrictions on the sport hunting of native U.S species (such as the grizzly bear in the conterminous 48 states) that are listed as threatened, limiting the activity to instances in which the hunting is "necessary and advisable to provide for the conservation of such species" and to "the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved." It is doubtful whether all such concerns could be ignored simply on the basis of an export permit issued by a foreign government. Moreover, the use of the term "presumed" implies that the established presumption is rebuttable under certain circumstances. In the case of the argali, with its history of excessive exploitation and the uncertainty concerning its management, there are substantive grounds on which to challenge the presumption. Finally, section 9(c)(2) does not prevent the issuance of appropriate special rules and could not logically have been intended to allow the addition of a species to an appendix of an international convention to override the needs of U.S. law, where there is reliable evidence to affect the presumption of validity.

It must be emphasized that the above interpretation of section 9(c)(2), as hereby adopted by the Service, is a key factor in the assignment of threatened, rather than endangered, status to the argali in Kyrgyzstan, Mongolia, and Tajikistan. If the Service were unable to issue a special rule restricting importation of trophies from those countries, and if therefore importation could proceed without assurances of adequate population status and management, such a situation would become a contributory element to factor "D" of section 4(a)(1) of the Act, "the inadequacy of existing regulatory mechanisms," and likely would be sufficient to warrant endangered classification of the involved populations. The current decision to assign threatened, rather than endangered, status to those populations was made by a very narrow margin. As explained below, there is evidence that those populations are relatively higher and more secure than elsewhere, but it also is known that their numbers have fallen from historical levels, and the Service is yet to receive official documentation of their status and management. Adding to the concern of the Service is the political and economic instability in parts of the former Soviet Union. The various problems are such that reclassification to endangered status, possibly on an emergency basis, remains under active consideration. Reclassification might become especially advisable if the Service found itself unable to adequately regulate the situation pursuant to a threatened classification.

Summary of Comments and Recommendations

In the proposed rule of October 5, 1990, and in associated notifications and subsequent extensions of the comment period, all interested parties were requested to submit information that might contribute to development of a final rule. Cables were sent to United States embassies in countries within the range of the subject species, requesting new data and the comments of the governments of those countries. A total of 41 parties commented on the proposal, some of them several times. In addition, copies of the comments of certain parties were distributed for review to certain other commenters, thereby sometimes generating further statements from the latter. Many of the comments presented new information, much of which has been incorporated into appropriate parts of this document and utilized in developing the appropriate classification and regulation for the argali. Some comments dealt with matters of opinion, plans for the future, literary format, taxonomy, and legal history, which are not relevant to the main questions at hand. Specific substantive issues, which appear to involve opposition to the measures taken in this rulemaking, are discussed below.

Issue 1.—The Service did not adequately fulfill the Act's requirement to consider the interests of or the conservation efforts being made by the involved foreign countries, and did not notify all appropriate countries, persons, and organizations.

Service Response.—Cables were sent to U.S. embassies in countries within the range of the argali, requesting that knowledgeable authorities be contacted and asked to provide opinions and data. This procedure has been standard in foreign endangered species listings for many years. Follow-up cables were sent in some cases and numerous letters were directed to specific authorities. All information received was given consideration. The Service does not consider that it must at this point initiate separate contacts with government agencies within the newly independent republics of the former Soviet Union (a recent effort was made, through the U.S. embassy in Moscow, to reach authorities there). The Service also does not consider itself obligated to contact governments in exile.

Issue 2.—The Service did not establish objective standards to evaluate the quality of information received, but used information selectively and sometimes accepted broad and poorly documented generalizations.

Service Response.—No available information was ignored, though the Service recognizes that not all existing information was or is available. Selectivity was used to some extent. The views of recognized authorities with extensive appropriate experience was given some weight. Such authorities include Dr. George B. Schaller (Science Director, Wildlife Conservation International, New York Zoological Society), who has spent many years studying wild sheep and conservation activities in Central Asia, and the Caprinae Specialist Group of the Species Survival Commission of the International Union for Conservation of Nature (IUCN/SSC).

Issue 3.—The Service did not use all of the information available or the best information and did not have enough to develop a final rule.

Service Response.—Listing rules are not intended to be complete literature reviews or status reports. The materials utilized for the proposed rule were sufficient to support that proposal. Data received during the comment period, including extensive information and assessments from the IUCN/SSC, support the final rule. Contrasting information was considered, but was often inadequately documented or dealt with very local situations.

Issue 4.—There should be no importation of trophies because the involved hunting would be contrary to the Act's requirement that special regulations allowing sport hunting apply only to the extraordinary case in which population pressures can not otherwise be relieved.

Service Response.—The provision of the Act, to which this issue refers, actually involves the hunting itself and when such should be allowed to benefit a species. This provision does not cover the act of importation, as is dealt with in this rule. While the Service considers that the intent of the Act is to provide all threatened species some level of protection (see Issue 6, below), the Service cannot regulate hunting in a foreign country. It can, however,

regulate importation of hunting trophies. A special rule providing for such importation can be justified on the grounds that the conservation of the argali is benefitted, in the same sense that a rule allowing hunting to relieve population pressures might be justified for a native U.S. species.

Issue 5.—The Service did not use sound reason and logic, particularly in that it should not have dealt with the entire species *O. ammon* as a single entity, but should have divided it into subspecies and/or populations based on its widely varying status and management needs.

Service Response.—In cases of wide-ranging species a choice must be made as to whether to provide a single classification that best reflects over-all status, or to apply various classifications and regulations to different populations. Neither approach is necessarily right or wrong. In any event, the final rule does use a split classification.

Issue 6.—Section 9(c)(2) of the Act effectively precludes restrictions on importation of threatened species that are on Appendix II of CITES.

Service Response.—As already noted, section 9(c)(2) does not expressly refer to threatened species or prevent issuance of special regulations. It established a presumption that can be challenged under specific circumstances. Much of the argument presented by the commenters on this issue centered on the supposed intent of Congress to avoid interfering with the hunting of nonendangered, including threatened, species. However, as explained above, the Act does clearly place great restrictions on the sport hunting of threatened species in the United States and it is questionable if Congress intended that foreign species be treated in a greatly different fashion. As noted above in Issue 4, the Service cannot control hunting of foreign species, but it can regulate their importation.

Issue 7.—The argali should be placed on Appendix I of CITES and given an over-all classification of threatened, thereby avoiding the problems referred to above in Issue 6 and allowing whatever special regulations are most appropriate for different populations.

Service Response.—Placing the argali on Appendix I is not an immediate prospect. In any case, as noted above, the Service considers that appropriate special regulations can be provided even if the argali remains on Appendix II.

Issue 8.—The argali has never been legally listed outside of Tibet, Nepal, and India, and there has been such confusion about its status that the Service's proposed rule could not be understood.

Service Response.—This final rule clearly shows where the argali is listed and how it is legally classified in each place.

Issue 9.—The proposal must be withdrawn because the Service did not follow it within one year by a published final rule or six-month extension of the deadline for a final rule, and also because this delay demonstrated that the Service did not have sufficient information for a final rule.

Service Response.—The publication of the six-month extension took place on October 25, 1991, only 20 days after the first anniversary of the proposed rule. Such a brief period is in keeping with statutory intent. The Service could have proceeded with a final rule even without the six-month extension, but wished to make an effort to seek and obtain new data that might help resolve the disagreement regarding information that was then available.

Issue 10.—Hunting of the argali is no longer a major problem to the survival of the species.

Service Response.—According to information provided by the IUCN/SSC Caprinae Specialist Group, poaching or excessive hunting is a significant threat to most argali populations.

Issue 11.—Although populations in Tibet, the Himalayan region, and a small part of the former Soviet Union might be appropriately classified as endangered, populations in the rest of China and the former Soviet Union, and in Mongolia do not warrant listing at all, except that some of the Chinese populations could be designated as threatened by similarity of appearance.

Service Response.—According to information provided by the IUCN/SSC, and other sources, all argali populations warrant some degree of classification on the basis of their bioconservation status alone. Additional details are provided in the following Summary of Factors Affecting the Species.

Issue 12.—At least in Mongolia, Kyrgyzstan, and perhaps parts of northern China there are substantial and well managed argali populations, effective conservation and law enforcement programs, authorities that have the capability to obtain and properly utilize needed data, and sport hunting programs that promote argali conservation efforts and yield funds for their benefit; therefore the Service should allow importation of trophies from these regions.

Service Response.—Information regarding the effectiveness of argali conservation efforts in most specific areas is limited and controversial. The most extensive supporting information comes from Mongolia, but even that case has been challenged by some authorities and has been received largely from outside parties, rather than from appropriate government agencies. There is a general consensus that proper sport hunting programs do have the potential to benefit some argali populations. The final rule does provide for importation from Kyrgyzstan, Mongolia, and Tajikistan, once specific documentation and certification has been received. As new information becomes available about argali population status and conservation in other countries, there is the potential for reclassification of the species and extension of the special regulations.

Issue 13.—The Service put too much dependence on overly general and unsupported statements from a few authorities, notably Dr. George B. Schaller.

Service Response.—Most available information pertinent to this rule is of two kinds, general statements about wildlife or environmental trends for large regions, and specific comments about argali observations in very local areas. Both kinds of information can be useful, though statements covering long-term trends of populations and problems in a general region, as assessed by a reputable authority with extensive experience in the region, can be of particular value in developing rules of this nature. In this regard, Dr. Schaller is among the world's foremost authorities on wildlife conservation, has been working in the highlands of Central Asia for many years, and is an expert on wild sheep and their relatives. He has both traveled extensively throughout the involved region and conducted a series of wildlife studies at specific localities. The results of both have been published widely in books, popular articles, and scientific papers. Dr. Sandro Lovari, chairman of the IUCN/SSC Caprinae Specialist Group, which comprises many authorities on the argali and related species from around the world, has specifically informed the Service that he trusts Dr. Schaller's views on the matter. The country-by-country status reports recently provided to the Service by the IUCN/SSC generally correspond to the view of Dr. Schaller (even though he is not a member of the Caprinae Specialist Group).

Issue 14.—The Service relied too much on hunters and their organizations and did not make an adequate effort to contact conservation and environmental organizations.

Service Response.—As already noted, there were repeated published extensions of the comment period and numerous parties were notified individually. Considerably more effort was made in contacting authorities than is usually made in the course of rulemakings of this kind. In coming to its final decision the Service depended, to a large extent, on the IUCN/SSC Caprinae Specialist Group, which in turn monitors data from authorities on environmental and wildlife conservation matters around the world.

Issue 15.—There is no firm evidence that sport hunting programs could ever benefit argali populations; a better alternative for generating conservation funds would be ecotourism projects.

Service Response.—Under current world conditions, and considering the activities of foreign governments, strictly regulated trophy hunting does, in some cases, have the potential to contribute to an economic incentive for conservation. Such benefit will have to be demonstrated prior to full implementation of the special regulation allowing limited importation of trophies from Kyrgyzstan, Mongolia, and Tajikistan. Although the Service would be interested in ecotourism and other conservation mechanisms, such would not necessarily rule out sport hunting, provided the latter has been shown to be beneficial to over-all argali populations.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the argali should be classified as endangered throughout its range, except in Kyrgyzstan, Mongolia, and Tajikistan where it should be designated as threatened. Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the argali (*Ovis ammon*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Concern for the argali is not new. Based largely on reports from the 1920s and 1930s, Harper (1945) provided a generally pessimistic review of the status of *O. ammon* and other wild sheep. He indicated that the argali once had occurred all across northeastern China to just north and west of Beijing, but had disappeared from most of the region because of agricultural usurpation of its habitat and excessive hunting by Western sportsmen. *O. ammon* also originally had been present in Siberia, but had been extirpated to the south and east of Lake Baikal by hunters in the 19th century and had declined in the Altai Mountains to the west. According to Mallon (1985), the species disappeared from northeastern Mongolia in the early 20th century. Cai (1985) noted that the argali still occurred in northeastern China, but gave no recent records. In his response to the Service's status review, Valerius Geist (University of Calgary) stated that the population of northeastern China, east of Gansu Province, is possibly extinct.

Borodin *et al.* (1984) recognized most argali populations in the former Soviet Union as being rare or vulnerable, and indicated that they had disappeared from much of their former range. Fedosenko (1985) provided an even more depressing review of the status of *O. ammon* in the former Soviet Union. The main reason for the declines, and the complete elimination in some areas, is competition with livestock. The great majority of habitats presently or previously used by the argali are now occupied by domestic sheep or other livestock. The most intensive competition is for winter range. At that time the argali is forced to forage in areas above the domestic sheep herds, where the snow is very deep. On the Pamir Plateau the argali herds attempt to descend to intermountain valleys for the winter, but may find that the habitat has been overgrazed by domestic animals.

Fedosenko (1985, 1991) indicated that the historical decline of *O. ammon* is continuing in the Altai region west of Lake Baikal. The species was considered common there in the 19th century, but now there are only a few scattered populations that together total about 450 animals. To the southwest, the population of the northern Tian Shan region and eastern Kazakhstan has undergone a critical decline since the late 19th and early 20th centuries, though there has been a recovery in parts of Kazakhstan since the early 1980s. In many places where it was numerous even in the 1940s the argali is now gone or rare, and remnant groups are fragmented. About 9,000 individuals are scattered over a vast part of eastern Kazakhstan and the northern Tian Shan Mountains. The most seriously jeopardized population (often designated the subspecies *O. a. nigrimontana*) in the former Soviet Union is restricted to a small, isolated section of the Kara Tau Mountains in southern Kazakhstan. Although its numbers were high as late as the 1950s, there now are no more than 250 animals.

According to Fedosenko, the largest population in the former Soviet Union is found on the Pamir Plateau of Tajikistan and in the nearby inner and central Tian Shan Mountains of Kyrgyzstan, but even it has declined. Numbers in the Pamirs were estimated at 33,000 in the 1960s, 20,000 in the 1970s, and 10,000–12,000 in the 1980s. Another 5,000 were estimated to inhabit the inner and central Tian Shan in the 1980s. The largest and densest herd, about 2,000 animals, is found in the cold deserts of the northern part of the Kokshaaltau Mountains (eastern Kyrgyzstan) where there is no pasture for domestic sheep. The name *O. a. polii*, or Marco Polo sheep, is sometimes applied to the argali population found in the Pamirs and inner and central Tian Shan. *O. a. polii* is the only subspecies of argali that was not listed as endangered, vulnerable, or rare by the Ministry of Agriculture of the former Soviet Union and not covered in the two editions of the Red Data Book of the USSR (Borodin *et al.* 1978, 1984). Such distinction was a factor in assigning a U.S. threatened, rather than endangered, classification to the argali in Kyrgyzstan and Tajikistan, though the Service recognizes that serious declines have occurred in these countries and that status is questionable in some respects. Further review of the situation could result in reclassification to endangered.

Fedosenko's over-all numerical estimates for argali in the former Soviet Union fell from 33,000–34,000 in 1985 to 25,000–26,000 in 1991 (not including the subspecies *severtzovi*, which he estimated to number 1,500 in 1991). In a detailed report prepared for Safari Club International, and submitted as a comment in response to the proposed rule of October 5, 1990, Domestic Technology International (DTI 1991) argued that the Service should not have relied so extensively on Fedosenko's studies and should have gathered data from other Soviet authorities. DTI also cited Warren Parker, former president of Safari Club International, as reporting a compilation of estimates from scientists in Kyrgyzstan indicating that there are 46,000–47,000 argali in the former Soviet Union. On November 28, 1990, Service representatives met with several Soviet wildlife authorities, including Prof. Dr. Vladimir Sokolov, Director of the Institute of Animal Evolutionary Morphology and Ecology. At the meeting and in a follow-up letter the Service transmitted a request for data on the

status of the argali. In response, the State Committee on Environmental Protection of the former Soviet Union indicated that argali populations are continuing to decline, because of habitat loss and poaching, and that substantial hunting programs would not be currently practical. It also was pointed out, however, that foreign sportsmen are allowed to take 10–12 individuals annually in a strictly regulated hunt in Kyrgyzstan. A cable subsequently was sent to the U.S. embassy in Moscow requesting more precise information, but no response has been received.

The range of the argali extends from the former Soviet Union into Xinjiang, the large northwestern province of China, but information on its status there is limited. Based on historical accounts and recent surveys, Schaller *et al.* (1988) concluded that the argali, once abundant in Xinjiang, now had declined and had vanished from vast tracts. In his response to the Service review of November 24, 1989, Schaller added: "Argali in the Tian Shan of China have seen a drastic decline in recent decades. The animals are either absent from or rare in most areas. Viable populations can be found in only a few spots." DTI (1991) challenged Schaller's statements and provided reports giving several varying views of status, including one estimate of 26,000 argali in Xinjiang, but concluded that the status of the species in that province "must be considered undetermined but not secure." New status reports provided by the IUCN/SSC suggest that there are about 20,000 argali in Xinjiang, divided into a number of populations, and that all are jeopardized by habitat loss, competition from livestock, or other problems.

The southwestern range of the argali extends from the Pamirs of Tajikistan into nearby parts of Xinjiang, Afghanistan, and Pakistan. Schaller *et al.* (1987) recently found that it had disappeared from most of the Chinese portions of its range and that the last viable population there, consisting of fewer than 150 animals, was confined to the western part of the Chalachigu Valley, a finger of land extending between Afghanistan on the north and Pakistan to the south. In adjacent northern Afghanistan there were estimated to be at least 2,500 in 1973. Habibi (1985) indicated that up until 1979 the argali and its habitat were well protected in Afghanistan. However, that was before the recent political upheavals and civil war, and current status of the sheep is unknown. A small population is present in extreme northern Pakistan, but it moves seasonally across the border into China. Recent construction of a highway there has disrupted its habitat and made it accessible to hunters (Geist 1984; Schaller 1977; Schaller et al. 1987). In its response to the Service review, the government of Pakistan indicated that this population had fallen from 300 individuals in the 1970s to a few dozen today.

The argali also appears to have declined farther to the southeast along the Himalayas. The range begins in the Indian state of Jammu and Kashmir and extends into Himachal Pradesh and Sikkim. In a response to the Service review, S.K. Mukherjee, Professor and Additional Director of the Wildlife Institute of India, stated that the species is distributed in very small, patchy units. The largest population, less then 500 animals, is found in the Ladakh region of Jammu and Kashmir. In a separate response, M.K. Ranjitsinh, Additional Secretary of the Ministry of Environment and Forests, stated that the argali has decreased in numbers throughout its range, both in India and Tibet, and that populations are becoming isolated. However, in his response to the review of November 24, 1989, Richard M. Mitchell, a mammalogist with extensive experience in the Himalayan region, wrote that he had received a report from an official of the state government of Jammu and Kashmir, indicating a significant recovery of the argali and a current population of 5,000–8,000 individuals. Comments on the proposed rule, provided both by government authorities in India and the IUCN/SSC, support the lower estimates. Wilson (1985) cited information indicating that the argali once had been fairly common in Nepal, but had declined drastically, with no confirmed sightings since 1965.

The above account generally suggests a serious curtailment of the argali's habitat and range in a great arc from northeastern China, through southern Siberia and Soviet Central Asia, to Xinjiang and the Himalayas. However, there long was a prevalent view that the species still occurred in great numbers throughout the vast heartland in the remote Gobi Desert, Tibetan Plateau, and adjacent parts of Mongolia and China. Now there are growing doubts about whether and how long substantial argali populations will persist in any region. The situation in Mongolia actually has fluctuated. Harper (1945) reported that the numbers in the Gobi "appear to be rather limited." Mallon (1985) stated that there had been a marked decline in Mongolia from 1940 to 1950, but that there was a recovery after protection was established in 1953. Both he and des Clers (1985) indicated that, while competition for habitat with domestic livestock and human disturbance were problems, the argali was relatively high in numbers and well managed.

In contrast, Schaller, responding to the Service review of November 24, 1989, wrote: "I assumed that argali in Mongolia were abundant and well-protected. That may have been true a decade ago but not now. I just spent 3 months in Mongolia, in the Gobi and Altai, to check on the status of wildlife, including argali. As in China, animals are rare or absent in most areas of suitable habitat. Both sheep [two subspecies of argali] can still be found in moderate numbers in remote or uninhabited areas, places perhaps suboptimal because livestock can only subsist there seasonally or not at all. Illegal hunting is a serious problem. Mongolia has had to close a number of hunting camps for foreigners recently because of lack of sheep. Unfortunately, no detailed status survey has been made. However, everyone with whom I talked commented on the general decline of the argali, especially in the Gobi where a drought during the 1980s has eliminated many critical water sources."

The comments on the proposed rule of October 5, 1990, also reflected some conflicting points of view with respect to the situation in Mongolia. DTI (1991) challenged Schaller's statements and argued that argali "in the Gobi Altai are generally increasing in numbers, well managed, not threatened by hunting or by any other human activity, and in fact, their habitat is improving due to the trend for young Mongolian men not to become livestock herders. There is insufficient information to make substantiating observations for other regions of Mongolia." DTI referred to various estimates that put argali numbers in Mongolia at from 15,000 to 60,000 animals. In another response to the proposal, Bertrand des Clers, Director of the International Foundation for the Conservation of Game, explained that his organization has been working with authorities in Mongolia for 17 years and that argali populations and habitat are well protected. He stated that numbers have increased, a conservative estimate for the country being 15,000 to 30,000 animals.

In his comment on the proposal, David Mallon expressed concern that the status of the argali in Mongolia had deteriorated since he had published the views cited in the proposed rule and above. He agreed with Schaller regarding environmental problems,

indicated that competition from livestock and increased access to limited range were major problems, and suggested that total numbers were clearly less than 40,000 animals. The status reports provided by the IUCN/SSC basically accept the information from Mallon. In his own comments on the proposal, Schaller pointed out that the argali may be locally abundant in parts of Mongolia, particularly where foreign hunters are taken, but that his general surveys over larger and more remote areas support the views that he presented earlier and that are cited above.

As with Mongolia, there is considerable disagreement regarding the status of the argali on the Tibetan Plateau and in adjacent north-central China—the provinces of Xizang (Tibet), Qinghai, and Gansu, and parts of Xinjiang, and Sichuan. In his response to the Service review, Richard M. Mitchell, who has much experience in China, reported that, based on his work in the region, the argali still is widespread, numerous, and secure. He noted that the remoteness of the habitat, the extremely rugged terrain, and the relatively low number of people are conditions that help to ensure the safety of the argali populations. Moreover, the people generally lack suitable hunting weapons and the animals are difficult to approach. Competition with domestic stock is a major threat, but is limited to accessible areas along roads and near communes. Over 350 argali were seen during a 7-day hunt in April 1988 in Gansu. Mitchell stated that he had seen a total of over 500 argali in the wild and that based on the density of these sightings, he would conservatively estimate the number of argali in China to be well over 100,000. In another response to the review, Bart O'Gara (Montana Cooperative Wildlife Research Unit) wrote that his experience in Qinghai Province indicates that argali there are "as plentiful as bighorns (*Ovis canadensis*) in Montana," but this assessment was based on observations at only a couple of locations. According to Thorne, Hickey, and Stewart (1985), Montana, which is about half the size of Qinghai, has approximately 4,600 bighorn sheep.

Comments on the proposed rule of October 5, 1990, provided some conflicting information. Mitchell reiterated his views, giving a new estimate of 117,000 to 143,000 argali in China and arguing that the animals are under no immediate threat. The Chinese Ministry of Forestry stated that argali populations are basically stable and that the number in Gansu Province is around 20,000. Lit Ng, an American sportsman who has traveled extensively in remote parts of China, reported that his own observations plus his discussions with many Chinese authorities support the presence of large and well-protected populations in Gansu. A number of Chinese biologists provided brief statements suggesting that the argali is not in jeopardy in Gansu or on the Tibetan Plateau. DTI (1991) tabulated numerous accounts of the species in the region, but concluded that in Qinghai the argali "cannot be considered secure," and that "Although the species might be on the increase, the overall status of argali in Gansu Province must still be considered undetermined."

The view that the argali has declined drastically on the Tibetan Plateau is based on observations by several authorities and on socioeconomic developments in the region. Galen Rowell (1990) in a recent article and in this response to the Service review of November 24, 1989, explained that since the Chinese occupation of Tibet in the 1950s, there have been major increases in human population, military and industrial activity, and environmental disturbance. The replacement of a nomadic subsistence economy by communes geared toward agricultural exportation has led to a tenfold rise in the amount of domestic livestock and to massive destruction of the fragile habitat from overgrazing. The loss of forage, together with uncontrolled hunting by military forces, has resulted in the disappearance of the former large herds of argali, wild yak, gazelle, and antelope. Rowell and others that he cited found that they could walk, ride, or drive for weeks through regions that historically supported vast numbers of wildlife without seeing a single large wild animal. In his response to the review, Schaller wrote with respect to argali in Tibet: "They are rare, most populations small, localized, and isolated; they are now gone from vast tracts." He added that the decline of wildlife has been general, not just in the most accessible areas, and that the herds remain moderatley abundant only in northwestern Tibet, where there has not yet been extensive hunting. The argali has been the species hardest hit by recent developments and now is the rarest ungulate in the involved region.

As already noted,there have been challenges to the general view, as expressed by Schaller, Rowell, and others, that argali populations have declined seriously on the Tibetan Plateau and in adjacent parts of China. Nonetheless, other authorities, in commenting on the proposed rule, also indicated that the argali warrants classification as endangered or threatened throughout China. These include Sandro Lovari and David Shackleton, who are, respectively, Chairman and Deputy Chairman of the IUCN/SSC Caprinae Specialist Group, and Raul Valdez and Pierre Pfeffer, whose books on wild sheep are cited in this document. Moreover, the IUCN/SSC provided a region-by-region status report on the argali in China, compiled mostly by authorities in that country. The report indicated that the total estimated number of argali throughout China is approximately 30,000 to 40,000, and classified all populations as endangered or vulnerable. All were considered jeopardized by poaching and/or habitat disruption.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Writing of the general decline of wild sheep and goats in the Himalayas, Schaller (1977) was critical of unscrupulous sportsmen, but noted: "Far more detrimental to wildlife than trophy hunting has been meat-hunting by local people * * * hunting has reduced most populations to a point where it is difficult to find localities with animals still living at natural densities and pursuing their existence in a normal social milieu."

Excessive hunting was a major factor in the historical disappearance of the argali from Siberia and northeastern China, and in its decline in other regions (Hapre 1945). It also caused at least a temporary depression of the populations in Mongolia during the 1940s (Mallon 1985), and, according to Schaller in his comments, is a serious problem there today (see above discussion of factor "A"). In Soviet Central Asia, poorly controlled hunting has been blamed in part for declining numbers of argali, both directly and through adverse alteration of the sex ratio and age composition of the herds, thereby reducing productivity (Fedosenko 1985). Intensive hunting, facilitated by construction of a highway, has led to the near extermination of the argali population that migrates between Pakistan and China (Schaller *et al.* 1987). Commercial hunting in Xinjiang during the 1970s resulted in trainloads of ungulate meat, including argali, being shipped eastward from the Tian Shan Mountains and contributed to the decline of the argali from that region (Schaller *et al.* 1988).

Again, there is disagreement regarding the effects of hunting on the Tibetan Plateau. In his comments on the Service

review, Mitchell argued that there has been no sport hunting in the region, and that the local people lack adequate firearms, ammunition, and transportation. Of over 100 argali skulls that he found in the field, all but one came from animals that had died naturally. In contrast, Rowell indicated that indiscriminate hunting by Chinese soldiers and armed civilians has contributed to the decline of the argali and other formerly abundant species of wildlife in Tibet. In his 1990 article, he stated that military forces have hunted for sport and, using machine guns, have made organized hunts for commercial purposes. Schaller (1986) wrote that on the Tibetan Plateau "there once lived great wild herds that rivaled those on the plains of North America. * * * Such herds are now almost gone. In recent decades, roads, mining camps, and herdsmen with livestock have penetrated even remote parts of the vast plateau * * *. Hunters have eliminated or reduced the numbers of wild animals over huge tracts."

In his original response to the Service review, O'Gara expressed concern that argali meat might be exported from China as was that of blue sheep (*Pseudois nayaur*). In his subsequent comments on the proposed rule, however, he indicated that this problem had passed. DTI (1991) supported the position that meat hunting is no longer a serious threat in China, but, as already noted, information newly provided by the IUCN/SSC indicates that poaching is a major problem for nearly all argali populations in that country.

Warren Parker, former president of Safari Club International, wrote in his response to the Service review: "We believe that in many cases, controlled sport hunting is the only feasible way to give these animals sufficient value to serve as an incentive for their conservation. Without such an incentive, the growing human populations, even in these remote areas, will inevitably lead to the decline of many of these species." This position, to some degree, was expressed by many parties who commented on the proposed rule, even by some who favored a ban on importation of trophies for the immediate future. There was perhaps a consensus, not that sport hunting is the only way to encourage argali conservation, but that it would contribute to such conservation if it is properly regulated, if it is based on reliable population data, and if it generates funds and leads to other practical benefits for the argali in the wild.

Although the Service has tentatively accepted the validity of the latter position, it is by no means the unanimous view of wildlife experts. Sandro Lovari, Chairman of the IUCN/SSC Caprinae Specialist Group, noted: "My personal view on the wise use of economic proceeds of sport hunting in Asia is rather pessimistic. I think that only few local people may be benefitted by hunting because (1) at present, hunting in Central Asia can hardly become so popular as to be a sustainable source of income for whole villages and towns; (2) most or all of the hunting fees will go to the government (or to officials) and hardly any local people will be substantially benefitted by that; (3) the frequent turnover of officials responsible for mangement in politically "difficult" and "unstable" countries does not favour the enforcement of long term management measures."

C. Disease or Predation

Various diseases and predation by wolves have been considered problems for some argali populations (Fedosenko 1985; Harper 1945). However, these and other natural difficulties are to be expected and usually only become of serious conservation concern when populations already have been severely reduced or fragmented through human disturbance.

D. The Inadequacy of Existing Regulatory Mechanisms

The subspecies *O. ammon hodgsoni* is on appendix I of CITES and all other subspecies are on appendix II. While such designations may assist in controlling international movement of parts and products, they have a negligible effect on the habitat disturbances and local hunting that are the main problems confronting the argali. Although the species is legally protected in the countries it occupies, a general view expressed in the sources cited in the above discussion is that enforcement is very difficult in the remote areas involved.

During the course of the comment periods on the proposed rule of October 5, 1990, it became apparent that one of the most critical issues in determining the proper classification and regulations for the argali would be the ability and willingness of regulating authorities in particular foreign countries to obtain adequate data on the status of populations, to develop and maintain management programs providing for long-term conservation, and to enforce laws and mechanisms permanently sustaining such populations and programs, as well as sufficient habitat and other conducive conditions. Lack of the foregoing situation, or at least of the assurance of its existence, becomes a factor in determining status pursuant to the Act.

The Service is confident that there are many official parties in each country within the range of the argali, who sincerely favor the long-term conservation of the species. In some cases such parties may advocate the view that sport hunting programs have the potential to facilitate conservation of wild argali populations under certain circumstances, and that the ability of foreign sportsmen to import their trophies to their home countries would be important in encouraging the hunting programs. As noted above, the Service tentatively accepts this basic premise. However, in order to provide for the involved importation, the Service must have assurance of the adequacy of regulatory mechanisms. Lack of such adequacy or of such assurance is a factor in assessing classification and regulation pursuant to the Act.

Of the several countries for which a reasonable argument might be made that sport hunting programs could potentially facilitate conservation, substantive supporting information has been received only for Mongolia. This information has come largely from comments on the proposed rule by des Clers, as well as his published paper (1985), and from DTI (1991) and various other commenters, including Valdez. It does appear that there is an effective management and sport-hunting program in place in portions of that country that could facilitate argali conservation. That program, together with reports of relatively large and secure argali populations, suggest that the species may not warrant classification as endangered there. Questions remain about the situation in Mongolia, however, and available information has been received mainly from outside parties and not appropriate government authorities. In addition to several attempts to contact such authorities in Mongolia, a cable recently was transmitted to the U.S. embassy there, specifically pointing out the failure of the government to provide necessary information and requesting that it once more be asked to do so. A late response transmitted some encouraging news from the Mongolian Environmental Control Committee, but supplied few data on population status, management, enforcement, and funding. Although the Service is classifying the argali as threatened in Mongolia and issuing a special regulation providing for eventual importation, government authorities

there will have to supply necessary documentation, as described above, in order to meet the requirements of the regulation. Inability to confirm appropriate conditions in Mongolia and/or to properly regulate importation of trophies from that country would become a factor in considering proposed or emergency reclassification of the argali there as endangered.

The Service is not convinced of the adequacy of regulatory mechanisms in the countries of the former Soviet Union. As discussed above, official response to a series of requests for information from that country was limited largely to a communication from the State Committee on Environmental Protection, in which it was indicated on the one hand that hunting was prohibited and not practical, and on the other hand that there is strictly regulated sport hunting in Kyrgyzstan. Although several unofficial commenters also suggested that there still are substantial and well-managed argali populations in Kyrgyzstan and perhaps one or two adjacent republics, efforts to obtain detailed official information have not yielded results. A recent comment from Leonid Baskin, Director of Biology of the Institute of Animal Evolutionary Morphology and Ecology in Moscow, expressed concern about a spontaneous increase in commercial hunting in the former Soviet Union and the potential great damage to argali populations. Also, the Service's Office of International Affairs has received information suggesting that the newly independent local game agencies of the various republics are actively seeking funds through an influx of foreign big game hunters. While such development is not necessarily detrimental, the Service does not wish to encourage additional hunting under questionable circumstances. The fluid situation in the former Soviet Union and the lack of assurances about regulatory mechanisms, together with the major declines in argali populations discussed above, have contributed to the decision to classify the species as endangered throughout the region, except in Kyrgyzstan and Tajikistan. Those two countries harbor what is still by far the largest argali population in the former Soviet Union, and one that seems to some extent protected by the remoteness of its habitat and by controls on hunting (the communication from the Soviet State Committee on Environmental Protection indicated that the argali was completely protected in Tajikistan and subject only to a very limited sport hunt in Kyrgyzstan). As in the case of Mongolia, however, the Service will require considerable documentation from the current governments of those two countries, prior to allowing importation, and, pending various legal, political, and bioconservation factors, may find reclassification to endangered status advisable.

Official response from China also has been limited, though the Service has received a letter from the Ministry of Forestry, through the U.S. embassy in Beijing, indicating that strictly regulated hunting programs have begun in several areas, particularly Gansu Province, and that more than 60 percent of the income generated is being retained locally for the protection of the argali and other wildlife. While encouraging, this statement does not meet the Service's requirement for detailed population and management data, as discussed above. Moreover, among the parties commenting on the proposed rule, including even those who favor sport hunting, there was a general (though not unanimous) consensus that the Chinese management programs are still in the formative stage. A number of authorities, including Schaller, Shackleton, and Valdez, reported that regulatory mechanisms in China are inadequate, and indicated that importation on the basis of these mechanisms would jeopardize the survival of the argali. In a comment on the proposed rule, John G. Mendoza, a Service law enforcement agent, indicated that investigations have revealed a lack of management capability in China. He reported that several American biologists with extensive experience in China indicated to him that the argali was rare in that country and/or that regulatory mechanisms there were very poor.

E. Other Natural or Manmade Factors Affecting Its Continued Existence.

Severe winter weather has been blamed for the loss or decline of some argali populations (Fedosenko 1985; Mallon 1985). In 1985, the most severe blizzard in 30 years struck the Tibetan Plateau, making it difficult for herbivorous animals to find food and resulting in the death of thousands (Schaller 1986). Such problems always are of greatest concern if populations already have been reduced by human activity.

The decision to add the argali to the List of Endangered and Threatened Wildlife was based on an assessment of the best available scientific information, and of past, present, and probable future threats to the species. There is no question that many populations have disappeared or declined seriously through human activity and that at least some of the current populations are highly vulnerable to habitat destruction and excessive hunting. In addition, there is little assurance that regulating authorities in foreign countries have the capability to obtain necessary data and to manage the argali and its habitat in such manner as to provide for the permanent well being of the species. Because of these and other problems, it has been decided to classify the argali as endangered in most of its range. In making this decision the Service relied heavily on the views of recognized international wildlife authorities, including Dr. George B. Schaller and the IUCN/SSC Caprinae Specialist Group. A partial exception to the general situation appears to exist in Kyrgyzstan, Mongolia, and Tajikistan, where there reportedly are substantial and well-protected argali populations. Therefore, the argali will be classified as threatened in those three countries and a special rule will provide for limited importation of trophies. Even in that case, however, the Service will need to receive authoritative documentation of conditions before the rule can be fully implemented. Many questions remain and the Service will endeavor to obtain and evaluate additional pertinent information that may lead to future modifications in the classifications and regulations covering the argali. Critical habitat is not being determined, as its designation is not applicable outside of the United States.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages conservation measures by Federal, international, and private agencies, groups, and individuals.

Section 7(a) of the Act, as amended, and as implemented by regulations at 50 CFR part 402, requires Federal agencies to evaluate their actions that are to be conducted within the United States or on the high seas, with respect to any species that is proposed or listed as endangered or threatened and with respect to its proposed or designated critical habitat (if any). Section 7(A)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the

continued existence of a listed species or to destroy or adversely modify its critical habitat. If a proposed Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service. No such actions are currently known with respect to the species covered by this proposal.

Section 8(a) of the Act authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered species in foreign countries. Sections 8(b) and 8(c) of the Act authorize the Secretary to encourage conservation programs for foreign endangered species, and to provide assistance for such programs, in the form of personnel and the training of personnel. Pursuant to these provisions of the Act, and because of the uncertainty of the situation in Kyrgyzstan and Tajikistan, the Service now is planning to contribute funds toward surveys of the status of the argali in those two countries. Such an effort may be part of a larger project involving other forms of assistance and cooperative funding from additional organizations.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered or threatened wildlife. It also is illegal to possess, sell, deliver, transport, or ship any such wildlife that has been taken in violation of the Act. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered and threatened wildlife under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance propagation or survival, or for incidental take in connection with otherwise lawful activities. The importation of a personal trophy, taken through a carefully managed sport hunting program that provides an economic incentive for the general conservation of the involved species, may in some cases be considered to enhance the survival of that species. For threatened species, there also are permits available for zoological exhibition, educational purposes, or special purposes consistent with the purposes of the Act.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** of October 25, 1983 (48 FR 49244).

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List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is hereby amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by revising the entry under MAMMALS for the "Argali *Ovis ammon hodgsoni*" to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Mammals:							
*	*	*	* *		*	*	
Argali	*Ovis ammon*	Afghanistan, China, India, Kazakhstan, Kyrgyzstan, Mongolia, Nepal, Pakistan, Russia, Tajikistan, Uzbekistan.	Entire except Kyrgyzstan, Mongolia, and Tajikistan.	E	15,475	NA	NA
Do	do	do	Kyrgyzstan, Mongolia, and Tajikistan.	T	475	NA	17.40(j)
*	*	*	* *		*	*	

3. Amend § 17.40 by adding a new paragraph (j) to read as follows:

§ 17.40 Special rules—mammals.

* * * * *

(j) Argali (*Ovis ammon*) in Kyrgyzstan, Mongolia, and Tajikistan—(1) Except as noted in paragraph (j)(2) of this section, all prohibitions of § 17.31 of this part and exemptions of § 17.32 of this part shall apply to this species in Kyrgyzstan, Mongolia, and Tajikistan

(**Note**—In all other parts of its range the argali is classified as endangered and covered by § 17.21).

(2) Upon receiving from the governments of Kyrgyzstan, Mongolia, and Tajikistan properly documented and verifiable certification that (a) argali populations in those countries are sufficiently large to sustain sport hunting, (b) regulating authorities have the capacity to obtain sound data on these populations, (c) regulating authorities recognize these populations as a valuable resource and have the legal and practical capacity to manage them as such, (d) the habitat of these populations is secure, (e) regulating authorities can ensure that the involved trophies have in fact been legally taken from the specified populations, and (f) funds derived from the involved sport hunting are applied primarily to argali conservation, the Director may, consistent with the purposes of the Act, authorize by publication of a notice in the **Federal Register** the importation of personal sport-hunted argali trophies, taken legally in Kyrgyzstan, Mongolia, and Tajikistan after the date of such notice, without a Threatened Species permit pursuant to § 17.32 of this part, provided that the applicable provisions of 50 CFR part 23 have been met.

Dated: May 19, 1992.

Richard N. Smith,

Acting Director.

[FR Doc. 92–14588 Filed 6–22–92; 8:45 am]

BILLING CODE 4310–55–M

federal register

Tuesday,
June 23, 1992

Part III

Department of Education

Dwight D. Eisenhower Regional Mathematics and Science Education Consortiums Program: Regional Mathematics and Science Education Consortiums Competition; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.168R]

Dwight D. Eisenhower Regional Mathematics and Science Education Consortiums Program: Regional Mathematics and Science Education Consortiums Competition

Notice Inviting Applications for New Awards for Fiscal Year 1992.

Purpose of Program: To award grants or cooperative agreements to support the establishment and operation of regional mathematics and science education consortiums to disseminate exemplary mathematics and science education instructional materials and to provide technical assistance for the implementation of teaching methods and assessment tools for use by elementary and secondary school students, teachers, and administrators.

The Dwight D. Eisenhower Regional Mathematics and Science Education Consortiums Program supports AMERICA 2000, the President's strategy for moving the Nation toward the National Education Goals, by seeking to strengthen mathematics and science education. National Education Goal 4 specifically calls for U.S. students to be first in the world in mathematics and science achievement by the year 2000.

Eligible Applicants: Private nonprofit organization, institution of higher education, elementary or secondary school, State or local educational agency, regional educational laboratory in consortium with a research and development center established under section 405(d)(4)(A) of the General Education Provisions Act, or any combination of these entities.

Deadline for Transmittal of Applications: July 31, 1992.

Deadline for Intergovernmental Review: September 30, 1992.

Applications Available: June 26, 1992.

Available Funds: $12,000,000.

Estimated Range of Awards: $1,000,000—$1,200,000.

Estimated Average Size of Awards: $1,000,000.

Estimated Number of Awards: 10—12.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Budget Period: 12 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

SUPPLEMENTARY INFORMATION: On May 7, 1992, the Secretary published a notice of proposed priorities for Regional Mathematics and Science Education Consortiums Program in the **Federal Register** (57 FR 19788). The public comment period for the notice of proposed priorities ended on June 8, 1992.

It is the policy of the Department of Education not to solicit applications before the publication of final priorities. However, in this case it is necessary to solicit applications on the basis of the notice of proposed priorities in order to have sufficient time available to conduct the competition and make awards prior to the end of the fiscal year (September 30, 1992).

Five parties, almost all of whom were supportive of the priority, commented on the notice. The Secretary anticipates making four changes in response to these comments. The paragraph prior to section (a) states that projects will promote systemic reform by disseminating exemplary materials, teaching methods, and assessment tools and by providing technical assistance in the implementation and adaptation of these materials, teaching methods, and assessment tools. This paragraph previously stated that projects will promote systemic reform by the development and use of curriculum frameworks appropriate to world-class mathematics and science standards. Section (b) eliminates the word "continually" so projects are not burdened financially with continuous evaluation. Section (c) clarifies that the consortiums must conduct or sponsor inservice professional development programs. Section (c) further provides that the design and implementation of these programs must be coordinated with other inservice professional development programs sponsored with Federal or State funds. Section (g) eliminates the word "governing" and clarification is given by repeating language in the law regarding the responsibility of the regional board to oversee the administration and establishment of program priorities for the regional consortium.

This notice contains the priority as the Secretary expects to issue it in the notice of final priority. Applicants should prepare their applications on the basis of this priority. If the Secretary makes any substantive changes to this priority before issuing the notice of final priority, applicants will be given an opportunity to revise their applications.

The Secretary solicits applications for this absolute priority.

Priority

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only applications that meet this absolute priority:

Development and Operation of Regional Consortiums to Support Systemic Reform

Projects that propose to establish and operate regional consortiums that will promote systemic reform by disseminating exemplary materials, teaching methods, and assessment tools and by providing technical assistance in the implementation and adaptation of these materials, teaching methods, and assessment tools.

The consortiums must carry out all of the following activities:

(a) Provide technical assistance to help States adopt world-class standards in mathematics and science, develop curriculum frameworks that embody these standards, and develop new forms of assessment matched to the curriculum frameworks. The consortiums must also provide technical assistance to help States develop and implement new approaches to teacher inservice and preservice education and teacher certification appropriate to the standards and frameworks.

(b) Identify and disseminate exemplary mathematics and science education instructional materials, teaching methods, and assessment tools for use by elementary and secondary school students. All materials and methods disseminated by the consortiums must reflect emerging world-class standards for mathematics and science and be evaluated for their positive impact on student learning. In order to identify the exemplary materials, teaching methods, and assessment tools and appropriate teacher education and certification programs, the consortiums must consult with classroom teachers (both public and private) and university scholars, together with State science and mathematics supervisors, Eisenhower State coordinators, National Diffusion Network State Facilitators, and representatives from the regional education laboratory, the National Science Foundation's State Systemic Initiative projects, and other organizations and activities promoting science and mathematics reform in the region. Consortiums must also consult with directors of exemplary mathematics and science projects in the region, whether funded by the Department of Education, the National Science Foundation, the Department of Energy, other federal agencies, or private foundations.

(c) Train and provide technical assistance to classroom teachers,

administrators, and other educators to adapt and use the instructional materials, teaching methods, curricula, and assessment tools described above. The consortiums must conduct or sponsor intensive inservice professional development programs, including local workshops during summer months, for science and mathematics teachers, including elementary teachers, and for student teachers engaged in pre-service clinical programs. Design and implementation of these programs must be coordinated with other inservice professional development programs in mathematics and science systemic reform efforts, such as State eductional agencies, the National Diffusion Network, Mathematics and science sponsored with other Federal or State funds in order to insure maximum coverage and minimize duplication of services. The professional development programs must prepare teachers to teach to world-class standards and new curriculum frameworks developed to implement those standards. The work of designing these professional development programs must involve teachers, scholars, administrators in the States and school districts, and other knowledgeable parties within the region.

The consortiums must also provide necessary follow-up support for teachers and student teachers who receive intensive training under this program to ensure continued access to information and materials—especially those made available by the Eisenhower National Clearinghouse—that will help them integrate world-class standards into their local curricula.

(d) Provide financial assistance, if necessary, to enable teachers, administrators, and other educators to help design, organize, attend, and participate in the activities of the regional consortium.

(e) Maintain on-line computer communications with all regional consortiums and the Eisenhower National Clearinghouse for Science and Mathematics Education.

(f) Document and report to the Secretary on the consortium's development and implementation process, and collect data that allow for evaluation of each major project objective, especially in terms of the impact of participation in consortium activities on the performance of teachers and their students. Each consortium must participate in any evaluation the Secretary may conduct.

(g) Establish a broadly based regional board to oversee the administration and establishment of program priorities for the regional consortium. The board shall include classroom teachers (public and private), university scholars, and representatives of major regional groups, organizations, or programs active in mathematics and science systemic reform efforts, such as State educational agencies, the National Diffusion Network, mathematics and science professional organizations, the National Science Foundation's State Systemic Initiatives, State legislatures, Governor's offices, local schools, boards of education, parent organizations, and business, labor, and industry organizations.

Selection Criteria

The Secretary evaluates an application on the basis of selection criteria under 34 CFR 75.210. Under 34 CFR 75.210(c), the Secretary is authorized to distribute an additional 15 points among the criteria to bring the total to a maximum of 100 points. For the purpose of this competition, the Secretary will distribute the additional points as follows:

Plan of Operation. (34 CFR 75.210(b)(3)). Ten (10) additional points will be added for a possible total of 25 points for this criterion.

(Evaluation Plan. (34 CFR 75.210(b)(6)). Five (5) additional points will be added for a possible total of 10 points for this criterion.

FOR APPLICATIONS OR INFORMATION CONTACT: Allen Schmieder, U.S. Department of Education, Fund for the Improvement and Reform of Schools and Teaching (FIRST) Office, 555 New Jersey Avenue NW., room 522, Washington, DC 20208–5524. Telephone (202) 219–1496. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 2994.

Dated: June 18, 1992.

Diane Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 92–14742 Filed 6–22–92; 8:45 am]

BILLING CODE 4000–01–M

federal register

Tuesday
June 23, 1992

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Prohibition Against Certain Flights Between the United States and Yugoslavia; Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26903; Special Federal Aviation Regulation (SFAR) No. 66]

RIN 2120-AE48

Prohibition Against Certain Flights Between the United States and Yugoslavia

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This action complies with the Order of the President of the United States to prohibit the takeoff from, landing in, or overflight of the territory of the United States by an aircraft on a flight to or from the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro), hereinafter "Yugoslavia." This action also prohibits the landing in, takeoff from, or overflight of the territory of the United States by any aircraft on a flight from or to any intermediate destination, if the flight is destined to land in or take off from Yugoslavia. This action is taken to prevent an undue hazard to the aircraft that would be engaged in such a flight, as well as to persons involved in the flight, arising from international adherence to or enforcement of UN Security Council Resolution 757 (1992) mandating, *inter alia*, an embargo of most air traffic with Yugoslavia. Issuance of this rule implements and is fully consistent with UN Security Council Resolution 757.

DATES:

Effective date: June 19, 1992.
Expiration date: June 19, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, Telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the number of this SFAR. Persons interested in being placed on a mailing list for future rules should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

Background

The Federal Aviation Administration (FAA) is responsible for the safety of flight in the United States and the safety of U.S.-registered aircraft throughout the world. Under section 103 of the Federal Aviation Act of 1958 (Act), as amended, the FAA is charged with the regulation of air commerce in a manner that best promotes safety and fulfills the requirements of national security. In addition, section 1102(a) of the Act requires that the FAA Administrator exercise his authority consistently with any treaty obligations of the United States. The United States is a party to the Charter of the United Nations (Charter) (59 Stat. 1031; 3 Bevans 1153 (1945)). Articles 25 and 48 of that Charter require that Members of the United Nations carry out the decisions of the Security Council. Article 25 states: "[T]he Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter." Additionally, Article 48(l) states, in pertinent part: "[T]he action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all members of the United Nations * * *."

On May 30, 1992, acting under Chapter VII of the UN Charter, the Security Council adopted Resolution 757, mandating an embargo of certain air traffic with Yugoslavia. Paragraph 7(a) of Resolution 757 requires all states to deny permission to any aircraft to take off from, land in, or overfly their territory if the aircraft is destined to land in or has taken off from Yugoslavian territory. An exception is made for flights that have been approved on the grounds of urgent humanitarian need by a special Security Council committee established by paragraph 13 of the Resolution.

The United States Government fully expects that member states of the UN will take action to comply with UN Security Council Resolution 757. Such action would have the effect of denying overflight rights to aircraft travelling to or from Yugoslavian territory. As a result, the FAA believes that a flight from the United States to Yugoslavia during the effective period of Resolution 757 could not be planned with assurances that the aircraft would have safe primary and alternate landing points within the fuel range of the aircraft. There is substantial risk, therefore, that such a flight could not be conducted safely.

The United States Government has taken several earlier actions to restrict air transportation between the United States and Yugoslavia. On June 5, 1992, the President issued Executive Order 12810, which prohibits "[a]ny transaction by a United States person, or involving the use of U.S.-registered vessels and aircraft, relating to transportation to or from the Federal Republic of Yugoslavia (Serbia and Montenegro) * * * or the sale in the United States by any person holding authority under the Federal Aviation Act * * * of any transportation by air which includes any stop in the Federal Republic of Yugoslavia (Serbia and Montenegro)." The Executive Order also prohibits:

> The granting of permission to any aircraft to take off from, land in, or overfly the United States, if the aircraft, as part of the same flight or a continuation of that flight, is destined to land in or has taken off from the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro).

Executive Order 12810 cited the President's authority under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 1114 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1514), section 301 of the United States Code (3 U.S.C. 301), and section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287(c)). This last Act provides that:

> Notwithstanding the provisions of any other law, whenever the United States is called upon by the [UN] Security Council to apply measures which said Council has decided * * * to be employed to give effect to its decisions under [the United Nations] Charter, the President may, to the extent necessary to apply such measures, through any agency which he may designate, and under such orders, rules, or regulations as may be prescribed by him, investigate, regulate, or prohibit, in whole or in part, economic relations of rail, sea [and] air * * * between any foreign country or to any national thereof or any person therein and the United States or any person subject to the jurisdiction thereof * * *.

On June 12, 1992, the Office of the Secretary of Transportation issued Order 92-6-27, which implements Executive Order 12810 by amending all Department of Transportation (DOT) certificates issued under sections 401 of the Act, all permits issued under section 402 of the Act, and all exemptions from section 401 and 402 accordingly.

Copies of the May 30 UN Security Council Resolution, Executive Order 12810, and DOT Order 92-6-27 have

been placed in the docket for this rulemaking.

Temporary Restrictions on Flights Between the United States and Yugoslavia

On the basis of the above, and in support of the Executive Order of the President of the United States, I find that immediate action by the FAA is required to implement the Executive Order. Furthermore, after consultation with the Department of State, I find that the current circumstances, including the closure of airspace and landing sites in countries situated between the United States and Yugoslavia to aircraft destined to land in, or having taken off from, Yugoslavia, represent a hazard to any aircraft used for that purpose as well as to persons onboard that aircraft. Accordingly, these circumstances further warrant immediate action by the FAA to maintain the safety of flight and meet obligations under international law. For these reasons, I also find that notice and public comment under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. Further, I find that good cause exists for making this rule effective immediately upon issuance. I also find that this action is fully consistent with my obligations under section 1102(a) of the Act to ensure that I exercise my duties consistently with the obligations of the United States under international agreements.

The rule contains an expiration date of June 17, 1993, but may be terminated sooner or extended if circumstances so warrant.

Regulatory Evaluation

The potential cost of this regulation is limited to the net revenue of commercial flights between the United States and Yugoslavia and the cost of having to circumnavigate the territory by U.S.-registered private aircraft. Revenue flights to Yugoslavia are currently prohibited by DOT Order 92–6–27, and the FAA is unaware of any U.S.-registered private aircraft currently operating over Yugoslavia. Accordingly, this action will impose no additional burden on commercial or private operators.

Benefits in the form of potential prevention of injury to persons and damage to property are not quantifiable and most likely would occur outside the United States. For these reasons, the costs and benefits of the regulation considered under DOT Regulatory Policies and Procedures are minimal, and a further regulatory evaluation will not be conducted.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this rule.

International Trade Impact Assessment

DOT Order 92–6–27 prohibits U.S. and foreign air carriers from engaging in the sale of air transportation to or from Yugoslavia. This SFAR does not impose any restrictions on commercial carriers beyond those imposed by the DOT Order. Therefore, the SFAR will not create a competitive advantage or disadvantage for foreign companies in the sale of aviation products or services in the United States, nor for domestic firms in the sale of aviation products or services in foreign countries.

Federalism Determination

The amendment set forth herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this action is not a "major rule" under Executive Order 12291. This action is considered a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because revenue flights to Yugoslavia are already prohibited by DOT Order 92–6–27, the FAA certifies that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 91

Aircraft, Aviation safety, Yugoslavia.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; Articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 Stat. 1180); 42 U.S.C. 4321 *et seq.*; E.O. 11514, 35 FR 4247, 3 CFR, 1966–1970 Comp., p.902; 49 U.S.C. 106(g).

2. Special Federal Aviation Regulation (SFAR) No. 66 is added to read as follows:

Special Federal Aviation Regulation No. 66. [New]

Prohibition Against Certain Flights Between the United States and Yugoslavia.

1. *Applicability.* Except as provided in paragraphs 3 and 4 of this Special Federal Aviation Regulation, this rule applies to all aircraft operations originating from, destined to land in, or overflying the territory of the United States.

2. *Special flight restrictions.* Except as provided in paragraph 3 of this SFAR—

(a) no person shall operate an aircraft or initiate a flight from any point in the United States to any point in the Federal Republic of Yugoslavia (Serbia and Montenegro) (hereinafter "Yugoslavia"), or to any intermediate destination on a flight the ultimate destination of which is in Yugoslavia or which includes a landing at any point in Yugoslavia in its intended itinerary;

(b) no person shall operate an aircraft to any point in the United States from any point in Yugoslavia, or from any intermediate point of departure on a flight the origin of which is in Yugoslavia, or which includes a departure from any point in Yugoslavia in its intended itinerary; and

(c) no person shall operate an aircraft over the territory of the United States if that aircraft's flight itinerary includes any landing at or departure from any point in Yugoslavia.

3. *Permitted operations.* This SFAR shall not prohibit the takeoff or landing of an aircraft, the initiation of a flight, or the overflight of United States territory by an aircraft authorized to conduct such operations by the United States Government in consultation with the United Nations Security Council Committee established by UN Security Council Resolution 757 (1992).

4. *Emergency situations.* In an emergency that requires immediate decision and action for the safety of the flight, the pilot in command of an aircraft may deviate from this SFAR to the extent required by that emergency. Any deviation required by an emergency shall be reported to the Air Traffic Control Facility having jurisdiction as soon as possible.

5. *Expiration.* This Special Federal Aviation Regulation expires June 19, 1993.

Issued in Washington, DC on June 19, 1992.

Barry Lambert Harris,

Acting Administrator.

[FR Doc. 92–14917 Filed 6–19–92; 5:07 pm]

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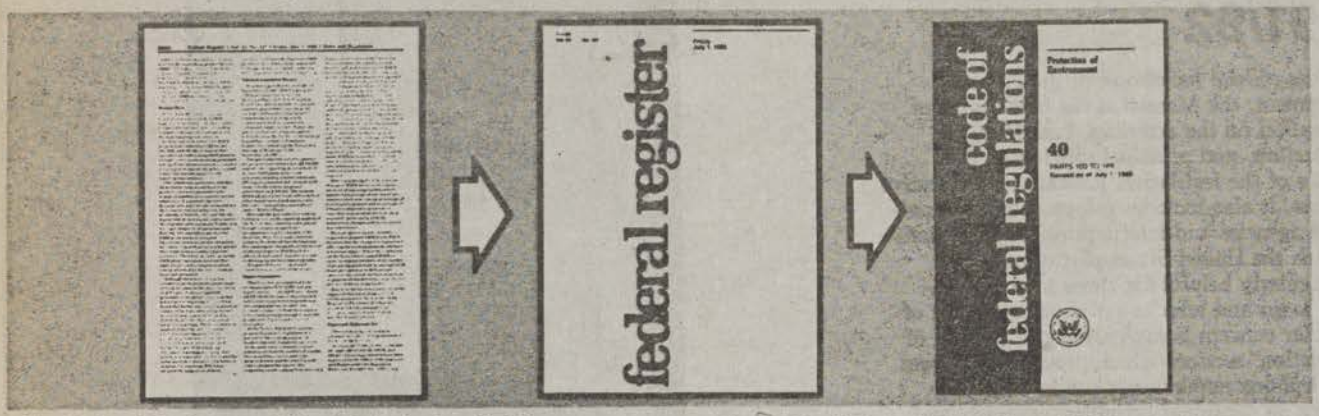

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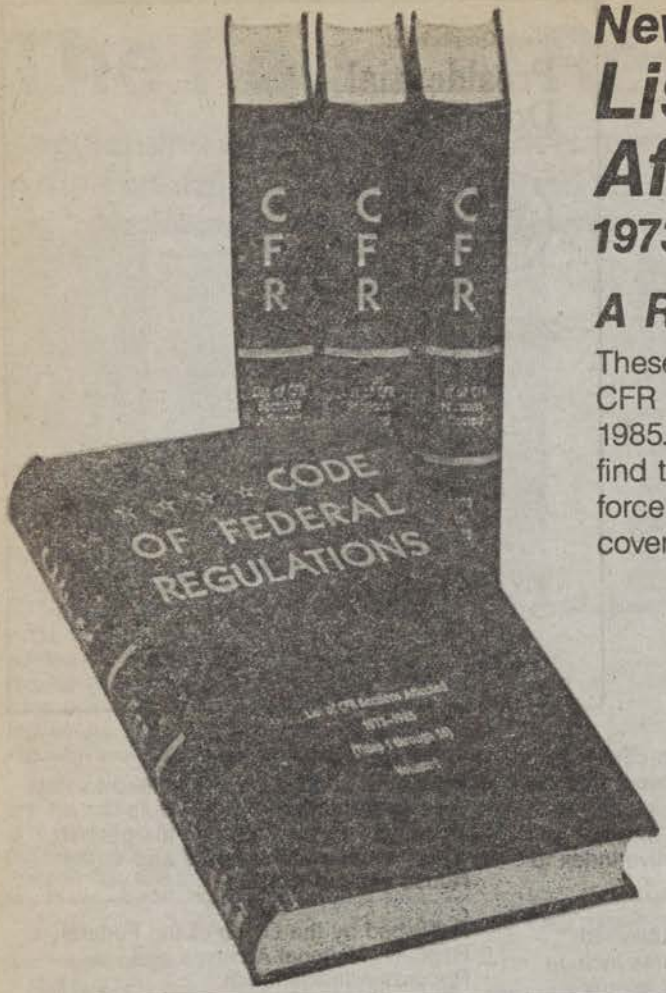

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